

Commission Enforcement Actions Involving the Internet and Online Services

The Commission's first "Internet" case

1. FTC v. Corzine, CIV-S-94-1446 (E.D. Cal. filed Sept. 12, 1994)

! Defendant: Brian Corzine, a/k/a Brian Chase, d/b/a Chase Consulting. x(1)

! Defendant ran advertisements on America Online, offering a credit repair kit. He represented that purchasers of his credit repair kit could legally establish a new credit file. The credit repair kit sold for \$99.

! On September 12, 1994, the FTC filed a complaint, charging defendant with misrepresentations in violation of § 5 of the FTC Act. The Court entered an *ex parte* Temporary Restraining Order, including a freeze of defendant's assets. On November 21, 1994, the Court entered a Consent Decree, enjoining defendant against making misrepresentations concerning credit repair programs and requiring the payment of \$1,917 in consumer redress.

<http://www.ftc.gov/opa/predawn/F95/chaseconsultin.htm> (press release - complaint/TRO)

The Commission's first online sweep: Chicago Regional Office's cases

Credit repair

2. Martha Clark, Docket No. C-3667 (final consent June 10, 1996)

! Respondent: Martha Clark, d/b/a Simplex Services. x(2)

! Respondent maintained a site on the World Wide Web, offering a credit repair kit. The FTC alleged she falsely represented that purchasers of her credit repair kit could remove accurate, non-obsolete information from their credit reports. Her program sold for \$39.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 10, 1996. The order requires respondent to cease and desist from making misrepresentations concerning methods of removing adverse information from a credit report.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp37.htm> (press release - final consent)

3. Brian Coryat, Docket No. C-3666 (final consent June 10, 1996)

! Respondent: Brian Coryat, d/b/a Enterprising Solutions. x(3)

! Respondent maintained a site on the World Wide Web, offering a credit repair kit and a credit repair agency business opportunity. The FTC alleged he falsely represented that purchasers of his credit repair kit could remove accurate, non-obsolete information from their credit reports, and that purchasers of the business opportunity could earn over \$1000 a day. The credit repair kit sold for \$24.95, and the business opportunity for \$49.95.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 10, 1996. The order requires respondent to cease and desist from misrepresenting methods of removing adverse information from a credit report, and concerning the earnings potential of business opportunities.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

4. Lyle R. Larson, Docket No. C-3672 (final consent June 12, 1996)

! Respondent: Lyle R. Larson, d/b/a Momentum. x(4)

! Respondent placed advertisements on the Internet offering a credit repair kit. The FTC alleged he falsely represented that purchasers of his credit repair kit could remove accurate, non-obsolete information from their credit reports, and that they could legally establish a new credit file. The credit repair kit sold for \$75 to \$100.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 12, 1996. The order requires respondent to cease and desist from misrepresenting methods of removing adverse information from a credit report, and the legality of credit repair products.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

5. Rick A. Rahim, Docket No. C-3671 (final consent June 12, 1996)

! Respondent: Rick A. Rahim, d/b/a NBDC Credit Resource Publishing. x(5)

! Respondent placed classified advertisements on America Online and CompuServe, offering a credit repair kit. The FTC alleged he falsely represented that purchasers of his credit repair kit could legally establish a new credit file. The credit repair kit sold for \$19.

On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 12, 1996. The order requires respondent to cease and desist from misrepresenting the legality of credit repair products.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

Business opportunities

6. Timothy R. Bean, Docket No. C-3665 (final consent June 10, 1996)

! Respondent: Timothy R. Bean, d/b/a D.C. Publishing Group. x(6)

! Respondent maintained a World Wide Web site offering a publishing and printing home business opportunity. The FTC alleged he falsely represented that purchasers of the business opportunity could earn \$4,000 or more per month, as well as other earnings amounts. His program sold for \$9.95 to \$19.95.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 10, 1996. The order requires respondent to cease and desist from misrepresenting the earnings potential of business opportunities.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

7. Robert Serviss, Docket No. C-3669 (final consent June 12, 1996)

! Respondent: Robert Serviss, d/b/a Excel Communications. x(7)

! Respondent placed classified advertisements on America Online and CompuServe, offering a

business opportunity consisting of sales of “business reports.” The FTC alleged he falsely represented that purchasers of the business opportunity could make up to \$100,000 per month. The business opportunity sold for \$97 to \$147.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 12, 1996. The order requires respondent to cease and desist from misrepresenting earnings potential of business opportunities.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

8. Sherman G. Smith, Docket No. C-3668 (final consent June 12, 1996)

! Respondent: Sherman G. Smith, d/b/a Starr Communications. x(8)

! Respondent placed classified advertisements on America Online, offering a business opportunity consisting of locating people who are entitled to a refund from the FHA on their mortgage insurance. The FTC alleged he falsely represented that purchasers of the business opportunity could make more than \$5,000 per month. The business opportunity sold for \$42.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 12, 1996. The order requires respondent to cease and desist from misrepresenting the earnings potential of business opportunities.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

Cash grants

9. Randolph D. Albertson, Docket No. C-3670 (final consent June 12, 1996)

! Respondent: Randolph D. Albertson, d/b/a Wolverine Capital x(9)

! Respondent placed classified advertisements on America Online, offering a cash grant matching service, for a fee of \$19.95. The FTC alleged he falsely represented that most of his customers are approved for cash grants.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 12, 1996. The order requires respondent to cease and desist from making misrepresentations in connection with cash grant assistance programs.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

Goods advertised but not furnished

10. FTC v. Brandzel, 96 C. 1440 (N.D. Ill. filed Mar. 13, 1996)

! Defendants: Robert A. Brandzel and U.S. Telemedia, Inc. x(11)

! Defendants offered computer memory chips for sale, posting advertisements in a Usenet newsgroup. Defendants received money from consumers who ordered the chips, but almost never

shipped any product or returned the money, the FTC alleged.

! On March 13, 1996, the FTC filed a complaint, charging defendants with violations of § 5 of the FTC Act and the Mail Order Rule. On the same day, the Court entered an *ex parte* Temporary Restraining Order, including a freeze of defendants' assets. The Court entered a stipulated Preliminary Injunction on March 29, 1996.

! On Sept. 24, 1996, the FTC announced a settlement with the defendants, under which they will pay \$5,500 in consumer redress. The order prohibits defendants from misrepresenting the time within which their merchandise will be shipped, and requires compliance with the Mail Order Rule.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9609/telemmed.htm> (press release - settlement)

Another credit repair case

11. FTC v. Consumer Credit Advocates, 96 Civ. 1990 (S.D.N.Y. filed Mar. 19, 1996)

! Defendants: Consumer Credit Advocates, P.C.; Consumer Credit and Legal Services, P.C.; John E. Petiton; and David B. Markowitz. x(15)

! Defendants posted an advertisement in approximately three thousand Usenet News groups, offering credit repair services. The FTC alleged defendants falsely represented that they could remove accurate, non-obsolete adverse information from credit reports. They charged a minimum retainer of \$500, and an additional fee per disputed item of \$125 to \$750.

! On March 19, 1996, the FTC filed a § 13(b) complaint and consent order. The order enjoins defendants from misrepresenting various aspects of their credit repair services, and requires them to make affirmative disclosures to consumers concerning the efficacy of credit repair services. Defendants were also required to pay \$17,500 in consumer redress.

<http://www.ftc.gov/opa/1996/9603/consum.htm> (press release - complaint/settlement)

The Commission's first big Internet case

12. FTC v. Fortuna Alliance, L.L.C., et al., Civ. No. C96-799M (W.D. Wash. filed May 23, 1996).

! Defendants: Fortuna Alliance, L.L.C.; Augustine Delgado; Libby Gustine Welch; Donald R. Grant; and Monique Delgado. x(20)

! Defendants marketed a pyramid investment scheme through a Web site and through word-of-mouth. They represented that consumers would receive an income of \$5,000 per month for each \$250 invested. In addition, defendants encouraged investors to set up their own Web sites in order to propagate the scheme, and provided them with advice and promotional materials to help them do so. Although defendants dressed up the investment scheme in New Age vestments, the FTC alleged it was nothing but a high-tech chain letter, with certain losses for the great majority of investors and tremendous profits for the defendants. At least 25,000 consumers paid money into this scheme.

! On May 23, 1996, the FTC filed a complaint, charging defendants with violations of § 5 of the

FTC Act. On May 24, the FTC obtained an *ex parte* Temporary Restraining Order freezing the defendants' assets, appointing a receiver to manage the company, and requiring defendants to repatriate company funds that were transferred to overseas accounts. The TRO also directed that promotional materials be removed from Fortuna's Web site and be replaced with a notice advising of the FTC's action and a hypertext link to a page on the FTC's Web site containing additional information and documents from the lawsuit. On June 10, the Court entered a Preliminary Injunction and held defendants in contempt for failure to comply with the requirement to repatriate assets. On June 27, with the funds still not repatriated, the Court issued civil arrest warrants against three individual defendants whom the FTC served process on in Belize.

! The scheme allegedly took in more than \$11 million from consumers. Defendants systematically transferred the bulk of their profits — over \$5 million — to offshore bank accounts. Most of the money went to an account at a bank located in Antigua. At FTC's request, the Department of Justice's Office of Foreign Litigation brought an action for a *Mareva* injunction in an Antiguan court. The action was successful in freezing defendants' funds held in the bank pending development of the FTC action.

! On February 24, 1997, the district court entered a stipulated final judgment. The judgment requires defendants to offer full refunds to all Fortuna members. Payment of redress is secured by a letter of credit for \$2.8 million, drawing on the funds in the Antiguan bank account, as well as additional funds still frozen in the U.S. In addition, during the course of the proceeding, the district court entered an order directing the receiver to return to consumers approximately \$2 million, in the form of checks that defendants had received but not deposited.

! On October 30, 1997, the FTC filed another contempt action against Fortuna and all of the individual defendants except Monique Delgado. The FTC alleged that these defendants had failed to pay the additional \$2 million required for consumer redress, and that they had failed to provide copies of on-going solicitations, as required. The FTC also alleged that the defendants and their lawyer had misrepresented the effect of the prior consent agreement, stating that Fortuna's prior solicitations had been legal. Hearings on the contempt action were held on Dec. 4 and 17, 1997, and defendants were ordered to comply with the final order and make additional redress payments.

! On June 5, 1998, the Court entered a final contempt order, banning defendants from promoting any marketing program until their \$2.2 million deficiency was paid. The FTC's redress administrator made partial payments to remaining consumers. Overall, 15,622 consumers from the U.S. and 70 foreign countries received approximately \$5.5 million in refunds.

<http://www.ftc.gov/opa/1996/9605/fortuna.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1997/9710/cntmpt1.htm> (press release - contempt)

<http://www.ftc.gov/opa/1997/9702/fortuna4.htm> (press release - settlement)

<http://www.ftc.gov/opa/1998/9807/fortunar.htm> (press release - contempt, redress)

<http://www.ftc.gov/ro/fortuna.htm> (web site - summary of actions)

Cases with multiple forms of advertising, including online solicitations

13. FTC v. Chappie (Infinity Multimedia), No. 96-6671-CIV-Gonzalez (S.D. Fla. filed June 24, 1996)

! Defendants: William B. Chappie; Joseph A. Wentz; Quality Marketing Associates, Inc.; and Infinity Multimedia, Inc.

x(24)

! Defendants promoted a CD-ROM display rack business opportunity at franchise and business opportunity shows, in newspaper advertisements, and through a site on the World Wide Web.

An *ex parte* complaint charged violations of § 5 of the FTC Act and the Franchise Rule.

! On June 25, 1996, the Court entered an *ex parte* TRO against the defendants, including an asset freeze and the appointment of a receiver. On July 2, 1996, the receiver placed a notice on Infinity's home page, advising of the FTC's action and linking to further information on the FTC's Web site.

! On January 15, 1997, the Court entered a stipulated permanent injunction that provided \$340,000 for consumer redress, dissolved the two corporate defendants, and barred Joseph Wentz from engaging in the sale of any future franchise or business opportunity. On Nov. 7, 1998, the FTC announced a settlement with remaining defendant William Chappie. The settlement required Chappie to pay \$70,000 in consumer redress and permanently banned him from selling or assisting others in selling business ventures in the future.

<http://www.ftc.gov/opa/1996/9606/infinity.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1996/9609/infinity3.htm> (press release - settlement Infinity, Quality, Wenz)

<http://www.ftc.gov/opa/1998/9811/chappie.htm> (press release - settlement Chappie)

14. Zygon International, Inc., Docket No. C-3686 (consent finalized Sept. 24, 1996)

! Respondents: Zygon International, Inc. and Dane Spotts. x(26)

! Respondents marketed consumer products such as the "Learning Machine" and the "SuperMind," which purportedly accelerated learning and enabled users to lose weight, quit smoking, increase their I.Q., and learn foreign languages overnight. Respondents advertised through national publications, a mail-order catalog, and a home page on the Internet.

! The FTC alleged that the respondents lacked substantiation for their product claims. The Commission's action was the result of a coordinated investigation by the FTC, the Attorneys General of Illinois, Pennsylvania, Texas, and Washington, and the District Attorney of Napa County, California.

! On September 24, 1996, the Commission finalized an administrative consent order in which Zygon agreed to pay \$195,000 in redress and refrain from making unsubstantiated health claims.

<http://www.ftc.gov/opa/1996/9604/zygon.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1996/9609/petapp56.htm> (press release - final consent)

Internet cases from Operation Missed Fortune

15. FTC v. The Mentor Network, Inc., Civ. No. SACV96-1104 LHM (EEx) (C.D. Cal. filed Nov. 5, 1996)

! Defendants: The Mentor Network, Inc. and Parviz Firouzgar. x(28)

! Starting in July 1995, defendants operated an alleged pyramid scheme. Consumers paid \$24 to join, and \$30 a month thereafter (for a minimum of one year), of which \$7.50 was to be paid to a bona fide charitable organization that assists needy children in foreign countries and \$15 was to be paid to consumers as recruitment bonuses. Defendants' stated that consumers who recruited only three new members could earn thousands of dollars per month. Defendants marketed their

program through participants' Web pages, as well as through other means. At least 2,300 consumers subscribed, paying over \$110,000 per month.

! On November 5, 1996, the FTC filed an action against defendants, alleging violations of § 5 of the FTC Act. The complaint alleged that defendants' misrepresented that consumers would receive a high level of income from participating in their program, and that defendants provided participants with the means and instrumentalities of deception, in the form of promotional materials used in recruiting new participants. On November 6, the Court granted an *ex parte* Temporary Restraining Order freezing the defendants' assets and appointing a temporary receiver to manage the company. On December 4, the parties stipulated to issuance of a preliminary injunction and appointment of a permanent receiver.

! On January 22, 1997, staff reached a settlement with defendants, which prohibited them from operating a chain or pyramid program, prohibit making false earnings claims and required payment of \$75,000 for consumer redress. Following approval by the Commission, the settlement was filed on March 17, and entered by the Court on March 25, 1997.

<http://www.ftc.gov/opa/1996/9611/misdfort.htm> (press release - sweep)

<http://www.ftc.gov/opa/1997/9703/mentor2.htm> (press release - settlement)

16. FTC v. Global Assistance Network for Charities, Civ. No. 96-02494 PHX RCB (D. Ariz. filed Nov. 5, 1996)

! Defendants: Global Assistance Network for Charities, aka GANC; Eileen Belcar; and Cedrick Robles. x(31)

! Starting in March 1996, defendants allegedly operated a pyramid scheme that purported to raise money for charities. Consumers paid an initial fee of \$70, and \$50 a month thereafter for membership. Defendants' promotional materials claimed that consumers would receive over \$89,000 per month once their matrix was filled. Defendants also claimed that 10% to 100% of the earnings would be donated to charities. Defendants marketed their program on a Web site as well as through other media. In October 1996, defendants estimated membership at 200 people.

! On November 5, 1996, the FTC filed an action against defendants, alleging violations of § 5 of the FTC Act. The complaint alleges that defendants' representations that consumers would receive over \$89,000 per month, and that consumers would receive a full refund if they did not make a profit, were deceptive. On the same day, the Court granted an *ex parte* Temporary Restraining Order, which among other things, prohibited the defendants from continuing to market GANC, froze the defendants' assets and required the defendants to provide access to their business records. On November 14, 1996, the Court issued a preliminary injunction order which extended relief similar to that contained in the TRO for the duration of the action.

! On April 24, 1997, the Court entered a stipulated final order, requiring defendants to pay \$4,900 in consumer redress.

<http://www.ftc.gov/opa/1996/9611/misdfort.htm> (press release - sweep)

<http://www.ftc.gov/opa/1997/9705/ganc.htm> (press release - settlement)

The cases of the hijacked modem

17. FTC v. Audiotex Connection, Inc., CV-97-0726 (E.D.N.Y. filed Feb. 13, 1997)

! Defendants: Audiotex Connection, Inc.; Promo Line, Inc.; Internet Girls, Inc.; William Gannon;

and David Zeng.

x(36)

! Defendants maintained adult entertainment sites at www.beavisbutthead.com, www.sexygirls.com, and www.1adult.com. The Commission alleged that consumers who visited one of these sites were solicited to download a viewer program, called “david.exe,” in order to view “free” images. Once downloaded and executed, the program disconnected the computer from the consumer’s own access provider, turned off the consumers’ modem speakers, dialed an international telephone number and reconnected the computer to a remote foreign site. The international call was charged to consumers at more than \$2 per minute, and charges kept accruing until the consumer shut down his computer entirely. Consumers received telephone bills for calls purported made to Moldova, when those calls actually went only as far as Canada.

! On February 13, 1997, the FTC filed a complaint against defendants, alleging violations of § 5 of the FTC Act. The Court entered an *ex parte* Temporary Restraining Order with a freeze over defendants’ assets. On February 21, defendants stipulated to a preliminary injunction and placed \$1 million in escrow for potential redress.

! The defendants agreed to settle the suit, and the Commission filed an amended complaint and a proposed consent agreement with the Court on November 4, 1997. The amended complaint added Internet Girls, Inc. as a defendant and dropped Anna M. Grella, the estranged wife of William Gannon.

! The Court signed the proposed settlement agreement on November 13, 1997. The order barred the defendants from misrepresenting that consumers can use certain software programs to view computer images for free, from offering calls connected through the Internet without posting specific disclosures, and from causing consumers to be billed for calls to destinations other than those listed on their telephone bills. The order required the defendants to receive written or contractual assurances from third parties that consumers’ calls will go to the destinations billed. The order also provided for most consumers to receive telephone credits through AT&T or MCI. The defendants (together with the Beylen respondents listed below) paid the two long-distance carriers approximately \$760,000 to administer a redress program, in addition to paying the FTC \$40,000 to refund losses incurred by non-AT&T or non-MCI customers. In this case and *Beylen Telecom, Ltd.*, described below over 27,000 victims who could be identified received back full redress totaling \$2.14 million.

<http://www.ftc.gov/opa/1997/9702/audiotex.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1997/9711/audiot-2.htm> (press release -settlement)

18. Beylen Telecom, Ltd. Docket No. C-3782 (final consent Jan. 23, 1998)

! Respondents: Beylen Telecom, Ltd., NiteLine Telemedia, Inc. and Ron Tan

x(39)

! In a companion case to *FTC v. Audiotex Connection, Inc.*, respondents maintained adult entertainment Web sites at www.erotica2000.com or [erotica2000.com](http://www.erotica2000.com). According to the Commission, consumers who visited one of these sites were solicited to download a viewer program “david.exe” in order to “free” images. Again, the program disconnected the computer from the consumer’s own access provider, turned off the consumers’ modem speakers, dialed an international telephone number and reconnected the computer to a remote foreign site. The international call was charged to consumers at more than \$2 per minute, and consumers received telephone bills for calls purported made to Moldova, when those calls actually went only as far as Canada.

! The respondents settled the action through an administrative consent order containing terms substantially similar to those in the *Audiotex* order. On Nov. 4, 1997, the Commission issued a proposed settlement and after a public comment period, the Commission issued a final complaint and consent order on January 23, 1998.

<http://www.ftc.gov/opa/1997/9711/audiot-2.htm> (press release -proposed consent)

<http://www.ftc.gov/opa/1998/9802/petapp8.htm> (press release -final consent)

Cases involving Commercial On-line Services: deceptive advertising and billing practices

19. **America Online, Inc.**, FTC File No. 952-3331 (final consent Mar. 28, 1998)

20. **CompuServ, Inc.**, FTC File No. 962-3096 (final consent Mar. 28, 1998)

21. **Prodigy Services Corp.**, FTC File No. 952-3332 (final consent Mar. 28, 1998)

! Respondents: America Online, Inc. (AOL), CompuServ, Inc., and Prodigy Services Corp. x(42)

! Respondents made “free trial” offers to consumers, but according to the FTC, did not adequately disclose that consumers would automatically be charged if they did not affirmatively cancel before the end of the trial period. Respondents also allegedly debited consumers’ bank accounts without proper authorization.

! On May 1, 1997, the Commission approved for public comment separate consent agreements with the companies. On March 28, 1998, the Commission finalized these consent orders. The orders prohibit the respondents from misrepresenting the terms and conditions of any online service trial offer. The consent order with AOL also requires clear disclosures regarding any electronic fund transfers from consumers’ accounts.

<http://www.ftc.gov/opa/1997/9705/online.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1998/9803/petapp17.htm> (press release - final consent)

Cases from Project Field of Schemes

22. **FTC v. JewelWay International, Inc.**, Action No. CV97-383 TUC JMR (D. Ariz. filed June 24, 1997)

! Defendants: JewelWay International, Inc., Bruce A. Caruth, Robert J. Charette, Jr., Donilyn A. Walden, Greg G. Stewart, and two relief defendants. x(47)

! Defendants ran an alleged pyramid scheme via a Web site and through group presentations, offering consumers the chance to earn up to \$2,250 a week plus bonuses for the purchase of expensive homes, automobiles, and vacations, by participating in a purported multi-level marketing scheme to sell fine jewelry. Consumers paid \$250 to \$2,750 or more and then had to recruit at least two new JewelWay representatives.

! On June 24, 1997, the FTC filed a complaint alleging the pyramid scheme was deceptive, in violation of the FTC Act, and the Court entered an ex parte TRO and appointed a receiver. Defendants stipulated to a preliminary injunction.

! On November 17, 1997, the Court approved a stipulated permanent injunction and final order. The order requires a payment of \$5 million in redress for approximately 150,000 investors. The order prohibits all defendants and JewelWay representatives from operating any pyramid schemes and requires the defendants to establish a product re-purchasing program.

<http://www.ftc.gov/opa/1997/9707/field.htm> (press release - sweep)

<http://www.ftc.gov/opa/1997/9707/field2.htm> (case digest -sweep)

<http://www.ftc.gov/opa/1997/9711/jewel-2.htm> (press release - settlement)

23. FTC v. Rocky Mountain International Silver and Gold, Inc., Action No. 97-WY-1296
(D. Colo. filed June 23, 1997)

! Defendants: Steve Lucas and Jansey Lynn Lucas, d/b/a Rocky Mountain International Silver and Gold. o(49)

! According to the FTC, defendants ran a pyramid scheme via a Web site and through group presentations, offering consumers the chance to “put as much silver, gold, platinum and cash in your pocket in the shortest amount of time as is humanly possible!” and promising high incomes and money-back guaranteed success. In fact, members earn income solely by recruiting others, not by selling silver coins, and they cannot obtain refunds upon request.

! On June 23, 1997, the FTC filed a complaint alleging the pyramid scheme was deceptive, in violation of the FTC Act. The Court entered an *ex parte* TRO and appointed a receiver.

Defendants stipulated to a preliminary injunction. Discovery and litigation continues.

<http://www.ftc.gov/opa/1997/9707/field.htm> (press release - sweep)

<http://www.ftc.gov/opa/1997/9707/field2.htm> (case digest -sweep)

24. FTC v. Dayton Family Productions, Inc. CV-S-97-00750-PMP (LRL)
(D. Nev. filed June 27, 1997)

! Defendants: Dayton Family Productions, Inc., J. J. Dayton Associates, Inc., High Voltage Pictures, Inc. aka High Voltage Entertainment, John Rubbico, John Iavarone, Glen Burke, Ignacio Jimenez, Kevin Roy, Fred Davidson, American Family Productions, Inc., American Family Consultants, Inc., Reunion Management, Inc., Icon Management Services, Inc., Aztec Escrow, Inc., Raymond Filosi, and Richard S. Hart. x(65)

! Through telemarketing, an Internet Web site, and other promotions, defendants allegedly solicited consumers to invest in two general partnerships that would fund low-budget, family films being produced by Lyman Dayton. According to the FTC, defendants diluted each investor’s promised stake by raising more money than they represented. Also, defendants allegedly misrepresented that could expect a 500 percent return and that Dayton had previously won several specified awards.

! On June 27, 1997, the FTC filed suit alleging violations of the FTC Act and the Telemarketing Sales Rule and the Court granted the FTC’s motion for an *ex parte* Temporary Restraining Order with an asset freeze. In July 1997 the Commission filed an amended complaint, naming additional defendants, and obtained litigated or stipulated preliminary injunctions against all defendants.

! The Commission obtained default judgments against Rubbico, Hart, and Davidson, and a settlement with defendant Filosi, prohibiting him from making future misrepresentations about investments. On Oct. 1, 1998, the Court approved a stipulated final judgment against High Voltage Pictures, Inc., High Voltage Entertainment, Inc., J.J. Dayton Associates, Inc., and Aztec Escrow, Inc. and four individuals. The order bans the individuals — Iavarone, Burke, Jimenez, and Roy — from future telemarketing activity. It also prohibits the sale of any customer lists and

requires payment of \$19,500 in disgorgement, subject to a \$1 million avalanche clause if defendants materially misrepresented their financial condition. On Apr. 10, the Court approved the Commission's motion to dismiss American Family Consultants, Inc. and Reunion Management Partners, Inc. as defendants.

<http://www.ftc.gov/opa/1997/9707/field2.htm> (press release - sweep)

<http://www.ftc.gov/opa/1998/9810/dayton-2.htm> (press release - settlement)

25. FTC v. Intellicom Services, Inc., Action No. 97-4572 TJH (Mcx)(C.D. Cal. filed June 23, 1997)

! Defendants: Intellicom Services, Inc. d/b/a Intellicom Group, Connectkom Services, Inc., Enternet 2000, Inc., World Net Development Group, Inc., Riviera Consulting, Inc., Granite Consulting, Inc., Brookside Management, Inc., Mediatech, Inc., American Long Distance Corp., Networld Consulting, Inc., Perspective Consulting, Inc., All Administrative Services, Inc., Prostaff Administrators, Inc., Support Staff Administrators, Inc., Frontline Consulting, Inc., Marc D. Levine, Ira Itskowitz, Mark Ericson, Paul Perelman d/b/a Connectkom Group, Mark V. Nachamkin a/k/a Mark Nash and d/b/a Enternet Communications, James C. Q. Slaton d/b/a Home Net Partners, Timothy D. Grayson, David Z. Diamand, Eugene Evangelist, Kent Bollenbach, Brent Morris, and Erica Llanos. o(92)

Relief Defendants: Dixon Capital Corporation; Greg Harrington; Chad Harrington (dismissed 3/99); T.L. Laidlaw (dismissed 3/99); and James M. Leonard.

! Defendants purportedly ran a fraudulent scheme promoting and selling general partnership interests in high-technology businesses, promising enormous profits in ventures such as Internet access and Internet shopping malls.

! On June 23, 1997, the FTC filed a complaint against twelve individual defendants and numerous corporations. The Court entered an *ex parte* TRO and appointed a receiver. The Court granted a preliminary injunction against eleven of the individual defendants on July 14 and against the twelfth on July 21, 1997.

! From Dec. 1998 through Feb. 1999, the Commission approved settlements with most of the individual defendants. These final settlements included over \$24 million in monetary judgements, separately assessed as follows: Mark Levine & Ira Itskowitz, \$11.178 million jointly and severally; Mark Ericson \$834,147; Mark Nachamkin \$4,550,426; Paul Perelman \$1,305,598; Eugene Evangelist \$1,556,000; Timothy Grayson \$1,825,800; Brent Morris \$2,258,000; Erica Llanos \$76,811; David Diamand \$521,549; James Slaton \$90,000. The Commission also settled its action with Frontline Consulting. The settlements listed above included telemarketing bans against Frontline and all of the individuals defendants except David Diamand. Diamand stipulated to a complete ban on investment sales. The Commission moved to dismiss two relief defendants and settled its suit with three other relief defendants. The Commission's motion for summary judgment is still pending against one individual, Kent Bollenbach, and motions for default judgment are pending against the fourteen remaining corporate defendants.

<http://www.ftc.gov/opa/1997/9707/field.htm> (press release - sweep)

<http://www.ftc.gov/opa/1997/9707/field2.htm> (case digest -sweep)

<http://www.ftc.gov/opa/1999/9901/intell.htm> (press release - settlement)

Coordinated U.S./Australian action against deceptive domain name registrar

26. Internic.com (August 27, 1997)

! Australian Defendants: Internic Technology Pty Ltd and Peter Zmijewskix x(94)

! Defendants operated a Web site that allegedly misled consumers into thinking they were using the official domain name registration service “InterNIC,” at www.internic.net. The *bona fide* InterNIC was operated by Network Solutions, which had an exclusive contract with the U.S. government to issue Internet domain names. Australia-based Internic Technology Pty Ltd and Peter Zmijewski allegedly operated a copy-cat Internet site at www.internic.com. As many as 13,000 consumers in 9 countries signed up for their domain names with the copy-cat site, paying \$250 instead of the \$100 normally charged for Internet registrations. The defendants allegedly forwarded \$100 to Network Solutions and pocketed the difference.

! On August 27, 1997, FTC staff issued an advisory opinion stating that the practices of Internic.com likely violated the FTC Act. The staff referred the case to the Australian Competition and Consumer Commission, which filed charges in Federal Court in Australia on May 1, 1998 alleging deceptive and misleading conduct. The ACCC charged that consumers who used the copy-cat site were deceived into believing they were using the services provided by InterNIC.

! In June 1999, the ACCC and the defendants reached a settlement that set up a compensation trust fund containing \$A250,000 (approximately \$161,000 U.S.) for consumer redress and barred the Australia-based company from using the internic name.

<http://www.ftc.gov/opa/1997/9708/internic.pr3.htm> (press release -advisory letter)

<http://www.ftc.gov/opa/1998/9805/accc.htm> (press release - ACCC complaint)

<http://www.ftc.gov/opa/1999/9906/interni1.htm> (press release -ACCC settlement)

Deceptive promotion of a health product with a natural "high"

27. Global World Media Corp. and Sean Shayan, Docket No. C-3772 (consent finalized Oct. 9, 1997)

! Respondents: Global World Media Corp. and Sean Shayan. x(96)

! Respondents marketed Herbal Ecstasy, a dietary supplement product promoted as a natural herbal "high," in media, including the Internet, with large youth audiences. Respondents allegedly made false claims about the product's safety, used endorsements of a fictitious doctor, and failed to disclose other health and safety risks.

! On October 9, 1997, the Commission issued a final consent order, barring respondents from making false or unsubstantiated claims about food, drugs, or dietary supplements and requiring the respondents to disclose certain warnings.

<http://www.ftc.gov/opa/1997/9707/ecstacy.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1997/9710/petapp54.htm> (press release - final consent)

Another Internet pyramid scam, this time with “spam”

28. FTC v. Nia Cano, et al., Civil No. 97-7947-CAS-(AJWx) (C.D. Cal. filed Oct. 29, 1997)

! Defendants: Nia Cano d/b/a Credit Development Int'l and Drivers Seat Network; Charles Johnson, Jaime Martinez, Jelena Tkalec, Robert Larson, David Lewis, and Bryan McCord. x(103)

Relief Defendant: Leaders Alliance, Inc.

! The FTC alleged that defendants ran a pyramid scheme and falsely promised consumers an unsecured VISA or MasterCard and the opportunity to receive \$18,000 in monthly income. The defendants purportedly recruited new members at live sales presentations. Many participants built their downline through unsolicited bulk e-mail (“spam”).

! On October 29, 1997, the FTC filed a complaint against the defendants. The Court entered an *ex parte* TRO, ordered a freeze on the defendants’ assets, and appointed a receiver to oversee the defendants’ business. On November 20, 1997, the Court held a contested hearing to determine whether a Preliminary Injunction should issue. The Court found that a Preliminary Injunction should issue and that the asset freeze and receivership should remain in place.

! In April 1998, the Commission asked leave to file an amended complaint, adding Jelena Tkalec, Robert Larson, Bryan McCord and David Lewis as defendants.

! On June 26, 1998, the Court approved proposed settlements between the Commission and the corporate defendants and individual defendants Nia Cano, Charles Johnson, and Bryan McCord. The settlements provide nearly \$2 million in consumer redress, enjoin the defendants from operating pyramid or Ponzi schemes, and liquidate the businesses involved in the alleged scheme. The Court approved settlements with individuals Tkalec and Lewis on Oct. 14, 1998 and on March 17, 1999, the Court approved the Receiver's redress plan.

<http://www.ftc.gov/opa/1997/9711/cdi.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1998/9804/petapp24.htm> (press release - amended complaint)

<http://www.ftc.gov/opa/1998/9806/cano2.htm> (press release - settlement Cano, Johnson, McCord)

The first action targeting deceptive “spam”

29. FTC v. Internet Business Broadcasting, Inc., et al., Civil No. WMN-98-495 (D. Md. filed February 19, 1998)

! Defendants: Thomas Maher, Dorian Reed, Audrey Reed, Internet Bus. Broadcasting, Inc. x(107)

! Defendants’ spam messages and Internet home page allegedly contained false and misleading income claims for their business opportunity to resell advertising space on their “City Edition” Internet newspaper sites. Defendants also allegedly failed to give disclosures to investors, as required by the Franchise Rule.

! On February 19, 1998, the FTC filed its complaint against the defendants and requested permanent injunctive relief and consumer redress.

! On April 19, 1999, the Court entered a default judgment against defendants Dorian and Audrey Reed in the amount of \$613,110. The Court approved the FTC’s voluntary dismissal, without prejudice, of allegations against defendant Thomas Maher. (Staff was unable to locate Maher to effectuate personal service, and service by publication was not feasible).

<http://www.ftc.gov/opa/1998/9803/ibb.htm> (press release- complaint/TRO)

A credit repair scam, with “spam”

30. FTC v. Dixie Cooley, d/b/a DWC, Civil No. CIV-98-0373-PHX-RGS (D. Ariz. filed

March 4, 1998)

! Defendant: Dixie Cooley. x(108)

! Defendant sent out spam promoting a credit repair service, which the Commission alleged violated the FTC Act and the Credit Repair Organizations Act (“CROA”).

! On July 22, 1998, the Commission moved for a default judgement, and the Court entered a final order on August 19, 1998. The order permanently bans Ms. Cooley from engaging in or assisting others engaged in the business of credit repair services and prohibits her from violating CROA and misrepresenting any fact concerning her ability to perform or provide any credit-related services or products for consumers, including debt consolidation, obtaining or arranging loans, or arranging any extension of credit, and from misrepresenting any fact material to a consumer's decision to purchase any product or service. Dixie Cooley was ordered to pay \$15,451.75 in redress.

<http://www.ftc.gov/opa/1998/9810/operasetl-3.htm> (press release- final judgment)

Project Net Opp: Internet-related business opportunity scams

31. FTC v. Hart Marketing Enterprises Ltd., Inc., et al., Civil No. 98-222-CIV-T-23E (M.D. Fla. filed February 2, 1998)

! Defendants: Hart Marketing Enterprises Ltd., Inc., Internet Space Station, Four Seasons Distributing, Inc., James Weems, Robert Lemcke aka Mark Walker, and Edward Patrick Evans aka Patrick Evans aka Edward Adams, and Bruce Blaire. x(115)

! Defendants promoted and sold free-standing computer kiosks with cash acceptors designed to allow customers to access the Internet, for a fee, from public locations such as hotels, airports or bookstores. Defendants allegedly made false earnings claims and gave phony references, in violation of the FTC Act, and allegedly failed to give disclosures in violation of the Franchise Rule.

! On February 3, 1998, the Court entered an ex parte TRO, and on March 20, 1998, the Court entered a stipulated preliminary injunction.

! On August 26th, 1998, the Court entered a default judgment against defendants Hart Marketing, Internet Space Station, and Four Seasons Distributing in the amount of \$872,882.95. On December 17, 1998, the Court entered a default judgment against defendant Lemcke in the amount of \$872,882.95. On January 13, 1999, the Court entered stipulated final judgments against defendants James Weems, Bruce Blair, and Patrick Evans.

<http://www.ftc.gov/opa/1998/9803/netopp.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1999/9901/hart2.htm> (press release - final orders)

32. FTC v. TouchNet, et al., Civil No. 98-0176 R (W.D. Wash. filed February 11, 1998)

! Defendants: TouchNet, Inc., Touchstone Telecommunications & Advertising, Inc., Eric Carino, and Malissa Carino. x(119)

! Defendants allegedly promised investors \$15,000 a month as an “Internet Consultant,” designing Web pages for businesses to appear in defendants’ “World Virtual City.” Defendants previously sold allegedly deceptive 900 number and prepaid phone card business ventures.

! On February 18, 1998, the Court entered a stipulated temporary restraining order. On June 29, 1998, the Court entered a stipulated permanent injunction, banning defendants from operating any business opportunity, franchise or business venture; enjoining collection of any amounts due from purchasers; and requiring defendants to notify them that their contracts are rescinded.

<http://www.ftc.gov/opa/1998/9803/netopp.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1999/9901/hart2.htm> (press release - settlement)

33. FTC v. FutureNet, et al., Civil No. 98-1113GHK (AIJx) (Filed February 17, 1998)

! Defendants: FutureNet, Inc., FutureNet Online, Inc., Alan J. Setlin, Robert DePew, Larry Stephen Huff, Chris Lobato, and David Soto. x(126)

! Defendants claimed recruits could earn substantial incomes by joining a multilevel marketing program selling Internet access devices, but according to the Commission, defendants ran an illegal pyramid, where income was dependent not on product sales but on recruitment of paying members “downline.”

! On February 23, 1998, the Court issued a temporary restraining order freezing defendants’ assets and appointing a receiver for the corporate defendants. On March 6, 1998, the Court issued a preliminary injunction continuing the TRO’s provisions.

! On April 8, 1998, a stipulated final judgment was filed, banning the corporate defendants and two individual defendants from operating pyramid schemes and selling distributorships through multi-level marketing; ordering payment of \$1,000,000 in consumer redress, and requiring a bond of \$100,000 to \$1,000,000, to escalate as sales grow, before engaging in any multi-level marketing.

! On Nov. 24, 1998, Larry Stephen Huff agreed to settle allegations against him. The proposed settlement would bar him from participating in future pyramid schemes and *any* form of multi-level marketing. Based on Mr. Huff’s financial disclosures, no consumer redress was ordered. However, should those financial disclosure statements prove to be false, an avalanche clause would make Huff liable for \$21 million in consumer redress.

! On Dec. 22, 1998, the Commission announced settlements with the two remaining defendants, Robert De Pew and David Soto. The settlements bar them from: participating in any future pyramid schemes; misrepresenting sales, earnings or other material facts about products or services they sell; selling electric power or other energy services without meeting licensing and registration requirements; and participating in any multi-level marketing program owned, operated or controlled by the other FutureNet principals. Both defendants also are required to obtain \$1 million performance bonds before engaging in future multi-level marketing. If their financial disclosure statements are shown to be false, they also will face a \$21 million judgment.

<http://www.ftc.gov/opa/1998/9803/netopp.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1998/9804/futurenet.htm> (press release - settlement w FutureNet)

<http://www.ftc.gov/opa/1998/9811/huff.htm> (press release - settlement w Huff)

<http://www.ftc.gov/opa/1998/9812/depew.htm> (press release - settlement w DePew, DeSoto)

34. FTC v. Inetintl.com, Inc., et al., Civil No. CV 98-2140 CAS (CWx) (C.D. Cal. filed March 25, 1998)

! Defendants: Inetintl.com, Inc. aka Inet International, Craig A. Lawson aka Bob Bryan, Erik R.

Arnesen, and Stanley R. Goldberg aka Geoff Stevens.

x(130)

! Defendants ran an Internet access business opportunity, in which investors sold Internet access and other computer-related products and services to the public. Defendants allegedly made false earnings claims and used phony references, in violation of Section 5, and allegedly failed to make disclosures required by the Franchise Rule.

! On March 26, 1998, the Court issued a temporary restraining order freezing defendants' assets and appointing a receiver over the corporation and defendant Lawson.

! The FTC moved for summary judgment against the defendants, and on May 11, 1999 announced that the Court had found in favor of the Commission. The Court barred Inet, Goldberg, and Lawson for life from offering for sale any business venture, franchise or investment opportunity. The Court ordered Arneson to post a performance bond in the amount of \$250,000 before advertising, promoting, or selling franchises, business ventures, or investment opportunities in the future. The Court also ordered total consumer redress of \$1.76 million, \$478,088 of which is to be paid by Goldberg. Goldberg has appealed the Court's decision. Lawson is a fugitive and a warrant has been issued for his arrest.

<http://www.ftc.gov/opa/1998/9804/inet.htm> (press release - complaint/prelim inj)

<http://www.ftc.gov/opa/1999/9905/inet12.htm> (press release final judgment)

35. FTC v. GreenHorse Communications, Inc., Civil No. CV-98-245-M (D.N.H. filed May 4, 1998)

! Defendants: GreenHorse Communications, Inc. and Lynn Haberstroh.

x(132)

! Defendants represented that investors who paid \$14,000 to \$15,000 could earn as much as \$134,992 within their first year of operating an Internet Web site development business.

! Defendants allegedly failed to provide prospective franchisees with the disclosure documents required by the Franchise Rule and failed to substantiate earnings claims.

! On May 4, 1998, the Court approved a settlement which bars defendants from future violations of the Franchise Rule; requires them to offer refunds and contract cancellation to any investor in the business opportunity; and bars them from selling, renting or transferring their customer lists or information about their customers.

<http://www.ftc.gov/opa/1998/9805/greenhorse.htm> (press release - complaint/settlement)

The first action against an online auction seller

36. FTC v. Craig Hare, Civil No. 98-8194 CIV HURLEY (M.D. Fla. filed March 30, 1998)

! Defendants: Craig Lee Hare aka Danny Hare, dba Experienced Designed Computers and C&H Computer Services

x(133)

Relief defendant: Stephanie J. Herter aka Stephanie Branham.

! Defendant Hare ran an online auction where the winning bidders paid for, but allegedly never received, their goods from Hare; relief defendant deposited checks endorsed by Hare.

! On April 2, 1998, the Court issued a temporary restraining order with asset freeze. On June 16, 1998, the Court approved the parties' stipulation to an extended, modified TRO.

! On October 12, 1998, the Court approved a stipulated final order, permanently banning

defendant Hare from engaging in Internet commerce.

! The FTC referred the Hare case to the FBI in West Palm Beach Florida and the U.S. Attorney for the Southern District of Florida. On February 12, 1999, after pleading guilty to one count of criminal wire fraud, Hare was ordered to pay \$22,000 in restitution and sentenced to six months home detention and three years probation.

<http://www.ftc.gov/opa/1998/9804/hare.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1999/9902/hare3.htm> (press release - criminal plea)

"Spam" advertising a high-tech chain letter (pyramid)

37. Calvin P. Schmidt, Docket No. C-3834 (final consent Nov. 16, 1998)

! Respondent: Calvin P. Schmidt d/b/a DKS Enterprises, DS Productions, DES Enterprises, www.mkt-america.com, and www.mkt-usa.com. x(134)

! Respondent's Web sites and "spam" e-mail messages promoted "Mega\$Nets" and "Megaresource," According to the Commission these were high-tech chain letter software programs, whereby a consumer who sent money to persons on the top of a list of names would receive "access codes" from those persons, enabling the consumer to "unlock" the software, delete the last name on the list, add the consumer's own name to the top, and duplicate the software.

! Respondent allegedly made false and unsubstantiated earnings claims through this pyramid or chain marketing program, in which most participants typically lose money, and also allegedly provided others with the means and instrumentalities to perpetuate this unlawful scheme.

! On November 16, 1998, a consent agreement with respondent became final. The consent order bars him from participating in electronic chain letters, pyramid programs, or Ponzi schemes, assisting or providing others the means to do so, or making earnings claims without substantiation.

<http://www.ftc.gov/opa/1998/9807/meganet.htm> (press release - final consent)

A fake government agency

38. U.S. Consumer Protection Agency, Civil No. 5:98cv00160 (N.D. Fla. filed June 8, 1998)

! Defendant: Robert M. Oliver, d/b/a U.S. Consumer Protection Agency and Consumer Protection Agency of Bay County. x(135)

! Defendant allegedly violated Section 5 of the FTC Act by falsely representing earnings to individuals interested in owning and operating a local consumer protection agency franchise. Defendants also allegedly violated the law by claiming their franchise was a government agency, and by failing to make disclosures required by the Franchise Rule.

! In a stipulated final judgment signed on November 25, 1998 by the Court, Robert Oliver was permanently enjoined from violating the FTC Act in connection with the offering, promotion, and sale of franchises and in connection with the sale of "consumer protection" services. The order also permanently enjoins Oliver from violating the Franchise Rule.

<http://www.ftc.gov/opa/1998/9812/oliver.htm> (press release - complaint/settlement)

An investment scam from Project Risky Business

39. FTC v. World Interactive Gaming Corp., Civil Action No. CV 98 5115 (E.D.N.Y. filed August 11, 1998).

! Defendants: World Interactive Gaming Corp., Jeffrey Burton, and Lawrence Blocker, d/b/a James Lawrence and Associates, and Gregory Flemming. o(139)

! Defendants telemarketed shares in an Internet gambling casino, Golden Chips Casino, telling investors profitability would mimic "Microsoft, Netscape and Yahoo." The FTC alleged that they misled consumers by claiming that World Interactive should 'conservatively' earn \$100 million in its first year and that investors could expect to make \$150,000 or more in one year from their \$10,000 investment.

! On August 17, 1998, the Court heard the FTC's request for a temporary restraining order. On September 23, 1998 the FTC amended its complaint adding Gregory Flemming as a defendant. Defendants entered into a stipulated preliminary injunction on Sept. 9, 1998. In December 1998, the Commission filed a motion for contempt. After 4 separate hearings, the contempt motion was settled on April 23, 1999.

! A proposed proposed settlement will bar deceptive claims in the future, require more than \$500,000 to be returned to investor-victims, and require the defendants to post a \$2 million bond prior to engaging in, or assisting others engaging in, the promotion, advertising, marketing or sale of an investment in any company that owns or intends to own an online gaming entity.

! Bohemia, New York based World Interactive Gaming Corp. and its principals, Jeffrey Burton and Lawrence Blocker, d/b/a/ James Lawrence and Associates, were parties to the settlement.

! In addition to the \$550,000 consumer redress and \$2 million bond requirements, the proposed settlement, which requires the court's approval, would bar Burton and Blocker from misrepresenting the nature and quality, likely return, associated risk or other any other material facts regarding any investment. The settlement bars the use of aliases and bars the defendants from selling, renting or disclosing their customer list. The proposed order imposes a judgment of \$1.8 million suspending payment of all but \$813,049 frozen by the court in conditional settlement of the judgment, based on financial declarations provided by the defendants. Of the \$813,049, \$550,000 will be available for consumer redress. Should the court find that the defendants misrepresented their financial situations, the entire \$1.8 million becomes due. A separate proposed default judgment against another defendant, Gregory Flemming, similarly enjoins him, imposes a \$1.8 million judgment, and requires a \$2 million bond before he markets any investment.

! The Commission's vote to approve the filing of the proposed consent judgment was 5-0. It and the proposed default judgment were filed by the FTC in the United States District Court for the Eastern District of New York on November 9, 2000, and are awaiting court approval.

<http://www.ftc.gov/opa/1998/9808/risky.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1998/9809/petapp5198.htm> (press release - amended complaint)

<http://www.ftc.gov/opa/2000/11/wig.htm> (press release - settlement)

The first Internet privacy case

40. Geocities, Docket No. C-3849 (final consent Feb. 12, 1999).

! Respondent: GeoCities

x(140)

! GeoCities, one of the most popular sites on the World Wide Web, agreed to settle Federal Trade Commission charges that it misrepresented the purposes for which it was collecting personal identifying information from children and adults, in the first FTC case involving Internet privacy.

! Under the settlement, GeoCities has agreed to post on its site a clear and prominent Privacy Notice, telling consumers what information is being collected and for what purpose, to whom it will be disclosed, and how consumers can access and remove the information. To ensure parental control, GeoCities also will have to obtain parental consent before collecting information from children 12 and under.

<http://www.ftc.gov/opa/1998/9808/geocitie.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1999/9902/petapp4.99.htm> (press release - final consent)

Another deceptive business opportunity

41. United States v. PVI, Inc., Civ. No. 98-6935 (S.D. Fla., filed Sept. 1, 1998)

! Defendant: PVI, Inc., d/b/a Photo Vend International

x(141)

! PVI sold business opportunities involving digital photo sticker vending machines. PVI solicited investors via e-mail, telephone presentations and written promotional materials and allegedly violated the Franchise Rule by: (1) failing to provide prospective buyers with timely, accurate and complete disclosure documents as required by the Franchise Rule; and (2) making earnings representations without providing prospective buyers with the required earnings claim document.

! The Department of Justice filed a complaint on behalf of the FTC on Sept. 1, 1998. On September 10, 1999, the court approved a stipulated final order filed by the parties. The order required the defendant to pay a civil penalty of \$11,000 and prohibited the company from future violations of the Franchise Rule and from making any false or misleading statement or representation of material fact, including representations relating to the income, profit, or sales volume of a franchise.

<http://www.ftc.gov/opa/1998/9809/vendup2.htm> (press release - complaint)

<http://www.ftc.gov/opa/1999/9909/photo-vend2.htm> (press release - final order)

More deceptive health claims

42. American Urological Clinic, et al., Civil No. 1:98-CV-2199 (JOS) (N.D. Ga. filed August 6, 1998).

! Respondents: David A. Brady, American Urological Corporation, The Institute of Sexual Research, Inc., The Clinic for Natural Solutions, Inc., Old Well Corporation (Texas), The Institute of Sexual Research, Ltd., and Old Well Corporation (North Carolina).

x(148)

! Respondents used Internet Web sites and direct mail to market Viagra-like products for \$39.45 to \$98.95. They sold their products under the names "Alprostaglandin®," "The Celldenaphil-pc System," "Renak-pc," "Oral Phentalomil®," "Prosta-Gen®," "Testosterone-21," "Väegra®," "Urophil," and "VasoGenitine." According to the Commission, the defendants misrepresented that

their products had been developed by legitimate medical enterprises and that clinical studies proved that the products effectively eliminated impotence in 68 to 94 percent of men.

! The Commission filed its case on August 3, 1998, and the U.S. District Court for the Northern District of Georgia (in Atlanta) granted the Commission's motion for a TRO and a freeze over the assets of Brady and his companies

! On April 29, 1999, the Court approved a final stipulated order against the defendants. The settlement imposes an \$18.5 million judgment on the defendants for consumer redress, which they will satisfy by giving up more than \$2 million in frozen assets. The Order prevents them from selling their customer lists and requires Brady to obtain a \$6 million bond before promoting, offering for sale, and selling any impotence treatment product. It also requires him to post a \$1 million performance bond for the first five years if he makes claims about the performance, safety, efficacy or health benefits of a food, dietary supplement, or drug other than a product to treat impotence. The performance bond would decrease after five years and be eliminated in the tenth year. Finally, the Order prohibits the defendants from 1) misrepresenting whether certain organizations have reviewed or approved any product or ingredient, 2) misrepresenting the nature or extent of the scientific evidence concerning any impotence treatment product, and 3) making unsubstantiated claims about the performance, safety, efficacy, approval or health benefits of any food, dietary supplement, or drug.

<http://www.ftc.gov/opa/1998/9808/brady.htm> (press release - complaint)

<http://www.ftc.gov/opa/1999/9905/brady2.htm> (press release - settlement)

43. TrendMark International, Inc., Docket No. C-3829 (final consent Oct. 6, 1998).

! Respondents: TrendMark Inc. dba TrendMark International, William McCormack and E. Robert Gates. x(151)

! Respondents allegedly made a host of unsubstantiated weight loss and health-related claims about their "THIN-THIN" Diet™ program. Respondents advertised the program in unsolicited commercial e-mail sent to users of America OnLine (AOL) and on its Web site.

! On June 25, 1993 the Commission approved a proposed consent with the respondents and gave its final approval on October 6, 1998. The consent order prohibits the respondents from making claims about the health benefits, performance or efficacy of its NEURO-THIN and LIPO-THIN products, or any food, drug or device without competent and reliable scientific substantiation. The agreement also prohibits respondents from misrepresenting the results of any test, study or research, and requires them to disclose clearly and prominently any material connection between a product endorser and the respondents. The consent agreement allows the respondents to use certain claims that are approved for labels by the Food and Drug Administration's Nutrition Labeling and Education Act of 1990.

<http://www.ftc.gov/opa/1998/9806/trendmrk.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1998/9810/petapp5298.htm> (press release - final consent)

44. American College For Advancement in Medicine, Docket No. C-3882 (final consent July 13, 1999).

! Respondent: American College for Advancement in Medicine (ACAM) x(152)

! ACAM advertised and promoted its non-surgical EDTA "chelation therapy" online. ACAM allegedly made false and unsubstantiated claims that its therapy was effective in treating atherosclerosis.

! On July 13, 1999, the Commission announced its final approval of an administrative settlement with respondents. Under this consent agreement, ACAM is prohibited from representing -- absent competent and reliable scientific information -- that chelation therapy is effective in treating atherosclerosis or any human circulatory disease.

<http://www.ftc.gov/opa/1998/9812/acam.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1999/9907/bpamoco2-3.htm> (press release - final consent)

Failure to provide rebates on computer equipment.

45. U.S. v. Iomega Corp., Civil Action No: 1:98CV00141C (D. Utah, complaint and consent filed Dec. 9, 1998).

! Defendant: Iomega Corp. x(153)

! Iomega is the world's leading manufacturer of portable data storage products, including the "Zip Drive," the "Ditto Drive," the "Jazz Drive," and "Zip Disks." In promoting these products, Iomega allegedly violated the Mail Order Rule by failing to send a cash rebate, merchandise premium, or both within the times stated in the advertisements, or, where no time was stated in the advertisements, within a reasonable period of time.

! Iomega agreed to settle the charges against it and pay a \$900,000 civil penalty -- the largest penalty ever obtained for non-fraudulent violations of the Mail Order Rule. A complaint and consent were filed in federal court on Dec. 9, 1998.

<http://www.ftc.gov/opa/1998/9812/iomega2.htm> (press release - complaint/settlement)

Internet credit card "cramming"

46. FTC v. J.K. Publications, Inc., et al (aka Netfill), Docket No. CV-990004 ABC (AJWx)(C.D. Cal., filed Jan 5. 1999).

! Defendants: J.K. Publications, MJD Service Corp., Kenneth H. Taves (also d/b/a Netfill, netfill.com, xbc.com, --Bill, Online Billing, Assist Online, Herbal Care, Discreet Bill, KULM Consulting Group, TAL Services), Teresa Callei Taves (also d/b/a Netfill, netfill.com --Bill, Herbal Care), Gary Neal Mittman (also d/b/a Adult Bank, netfill.com, adultbank.com), Dennis Rappaport (also d/b/a Adult Bank), Maurice O'Bannon (also d/b/a MJD Enterprises and Adult Bank), TAL Services, Inc., Discreet Bill, Inc., Adult Banc, Inc., and Herbal Care, Inc. x(164)

! Defendants allegedly charged consumers for Internet services that consumers had never ordered, authorized, or even heard of. Consumers received monthly credit card or debit card statements with charges of \$19.95 alongside the names N-Bill, Netfill, MJD Service Corp., and Webtel. When consumers asked their banks about these charges, consumers were told they are for "Internet services" or "adult Internet services," even though some of these consumers reported that they did not own computers. Consumers had difficulty challenging these charges, and if consumers called defendants' toll-free number and got through at all, consumers received a voice recording telling

them to input their credit card number for customer assistance. Customers who reached a real person and managed to obtain a credit often found similar charges reappearing on later statements.

! On Jan. 5, 1999, the FTC filed a complaint with a motion for an *ex parte* TRO. On Jan. 6th, the Court granted the FTC's motion and prohibited further unauthorized charges, froze the defendants' assets, and appointed a receiver over J.K. Publications and MJD Service Corp. On January 20, the Commission filed an amended complaint, dismissing Net Options, Inc. and naming Dennis Rappaport, Maurice O'Bannon, TAL Services, Inc., Discreet Bill, Inc., Adult Banc, Inc., and Herbal Care, Inc. as additional defendants. The parties agreed to an initial extension of the TRO and the Court extend it again on Feb. 11, 1999.

! After hearing argument, the Court issued a preliminary injunction, continuing the TRO's conduct prohibitions, asset freeze, and receivership. The Court released assets for attorneys fees but extended the receivership estate to include several named affiliates and the assets and business records of individual defendants Ken and Theresa Taves.

! In April, the Court held a hearing to determine whether Ken and Teresa Taves were in contempt for transferring and failing to disclose a Malibu residence worth approximately \$2 million. The Court heard a second contempt motion over the Taves' failure to disclose and repatriate \$6.2 million held in the Cayman Islands. The Court found the Taves in civil contempt on both motions. The U.S. Attorneys' office for Los Angeles moved for criminal contempt, and Ken Taves was incarcerated.

! On June 10, 1999, the Court entered a stipulated final judgment against Mittman. In late February 2000, Ken Taves was indicted for making false statements to FTC attorneys. On March 8, 2000, the Court issued a default judgment against Rappaport, holding him liable for up to \$40 million in redress.

! The Commission filed a motion for summary judgment against the other defendants in November 1999. After a hearing in April 2000, the Court issued a 72-page decision, finding all but one defendant (O'Bannon) liable for "unfair" practices and unauthorized credit card charges. After a trial on June 14, 2000, the court issued a 43-page decision finding that over 90 percent of defendants charges (\$43 million) were fraudulent. After subtracting the amount of credits or chargebacks that had already been issued, the court found the defendants liable for \$37.567 million in redress to consumers.

<http://www.ftc.gov/opa/1999/9901/netfill.htm> (press release -complaint/TRO)

<http://www.ftc.gov/opa/1999/9902/petapp4.99.htm> (press release - adding defendants, dismissing Net Options)

<http://www.ftc.gov/opa/2000/09/netfill.htm> (press release - final order and injunction)

Operation New ID -- Bad Idea: online promises of a new credit identity.

47. **FTC v. Mehmet Akca a/k/a Matt Akca also d/b/a AKCA**, Civil Action No. 99-S-204 (D. Colo.)

48. **FTC v. All About Communications USA, Inc.**, 99-6122-CIV-FERGUSON, (S.D. Fla., filed Feb. 1, 1999).

49. **FTC v. Cliff Cross and d/b/a Build-It-Fast**, Civ. No. M099CA018 (W.D. Tex., filed Feb. 1, 1999).

50. **FTC v. Kevin Drake d/b/a New Credit '98**, 3-99 CVO213-R (N.D. Tex., filed Feb. 2, 1999).
51. **FTC v. David E. Dunn d/b/a Pro Se Publications** , 3-99 CVO 211-G (N.D. Tex., filed Feb. 1, 1999).
52. **FTC v. Edward Lane d/b/a Edward Lane & Associates**, Civ. No. CY-99-3005-WFN (E.D. Wash., Jan. 29, 1999).
53. **FTC v. Ross Sanford Leiss, d/b/a RLeiss & Associates**, Civ. No. 99-102-A (E.D. Va. Jan. 29, 1999).
54. **FTC v. Michael Lyons d/b/a Lyons Publishing**, 99 CV 6049 (W.D.N.Y. filed Jan. 29, 1999).
55. **FTC v. Ralph Lewis Mitchell, Jr.**, CV 99-984 TJH (BQRx) (C.D. Cal., filed Jan. 29, 1999).
56. **FTC v. Frank Muniz**, No. 4:99-CV-34-RD (N.D. Fla. filed Feb. 1, 1999).
57. **FTC v. Philip D. Miller d/b/a New Start**, Civ. No. WMN 99-251 (D. Md., filed Jan. 29, 1999).
58. **FTC v. Patrick R. Kelly d/b/a Patrick R. Kelly Enterprises and P.R.K. Enterprises**, 99 CIV 562 (E.D.N.Y. filed Jan. 29, 1999).
59. **FTC v. Steve Neizianya d/b/a Standard Business Services**, 3-99 CV0214-L (N.D. Tex., filed Feb. 2, 1999).
60. **U.S. v. A. James Black**, Civ. No. 99-113 (M.D. Fla., filed Feb. 2, 1999).

! Defendants: Mehmet Akca, All About USA, Inc., Michael Cilone, and Rachel Cilone, Cliff Cross¹, Kevin Drake, David E. Dunn, Edward Lane, Ross Sanford Leiss, Michael Lyons, Ralph Lewis Mitchell, Jr., Frank Muniz, Philip D. Miller, Patrick R. Kelly, Steve Neizianya, and A. James Black. x(180)

! Defendants offered a variety of credit kits, ranging in price from \$19.95 kit to \$59.95. Their Web site or e-mail solicitations made claims including promises of “a TOTALLY NEW-CLEAN credit file,” “a brand new credit file in less than 30 days,” “A COMPLETELY NEW CREDIT FILE -- LEGALLY, and totally separate from your present credit file.”

! The Commission (and in one case, the Department of Justice) filed complaints in federal court during late January or early February 1999, alleging violations of Section 5 of the FTC Act and Section 404(a)(2) of the Credit Repair Organizations Act “CROA.” The government has sought injunctive relief and redress for consumers.

! In October 1999, The FTC announced that defendants in the **Mehmet Akca, All About Communications USA, Inc., David E. Dunn, Edward Lane, Ross Sanford Leiss, Michael Lyons, Frank Muniz, Philip D. Miller**, and **Steve Neizianya** matters agreed to settle federal

¹ In addition to the civil case brought by the FTC against Clifton W. Cross, on May 9, 2001, Cross was sentenced to forty nine months in federal incarceration and ordered to pay nearly \$171,000 in restitution as part of a guilty plea resolving criminal charges stemming from the scam. The criminal case was prosecuted by the United States Attorney for the Western District of Texas.

charges that the "file segregation" advice and products violated federal law.²

! The settlements will provide consumer redress for victims of the scam; bar future violations of the Credit Repair Organizations Act; bar deceptive claims about file segregation -- including claims that it is legal -- and require that the defendants notify their victims that using a false identification number to apply for credit is a felony. Thirteen of the sixteen settlements announced as part of the sweep provided for full consumer redress. Financial declarations filed by three defendants indicate an inability to provide redress. (Not all of the cases in the sweep were Internet related. Also, some of the cases included in the settlement are from the second round of the sweep, which was announced in May 1999). Their settlements contain provisions to allow reopening of the issue if defendants are found to have misrepresented their inability to pay. All the settlements contain record keeping provisions to allow the FTC to monitor compliance.

! The Commission votes to accept the proposed stipulated final judgments were 4-0.

! A similar settlement was announced with Clifton W. Cross, individually and dba as Build-It-Fast on June 21, 2001. Settlement of the FTC charges bars the defendant from representing that other government identification numbers can be lawfully used to conceal actual credit histories or that using alternate numbers is legal. In addition, the settlement bars him from misrepresenting material facts concerning credit-related products or any other product or service. The settlement also bars violations of the Credit Repair Organizations Act, which prohibits charging or accepting payment for credit repair services before the services are provided and advising consumers to hide their true credit history. The settlement also bars the defendant from using or selling his customer lists. Finally, the settlement contains provisions concerning defendant's inability to pay and reopening the matter in the event that defendant misrepresented this.

<http://www.ftc.gov/opa/1999/9902/consumerweek2.htm> (press release - sweep)

<http://www.ftc.gov/opa/1999/9910/badidea.htm>

<http://www.ftc.gov/opa/2001/06/cross.htm> (press release -- stipulated order)

"Dream Car" pyramid, the 1st case in the Rolling Internet Pyramid Sweep

61. FTC v. Five Star Auto Club, Inc., Civil No. 99-1693 (S.D.N.Y. filed March 8, 1999).

! Defendants: Five Star Auto Club, Inc., Michael R. Sullivan, Angela C. Sullivan, Advance Funding Inc., Thomas Lee Bewley, and Judy L. Bewley. x(186)

! The Commission alleged that Defendants operated an illegal pyramid scheme that purported to allow members to "drive their dream vehicle for free" while earning large monthly commissions. The FTC contended that the vast majority of participants could never qualify for free automobile leases and were destined to lose money in the scheme. Defendants, as well as a number of Five Star participants, made extensive use of the Internet to recruit new entrants into the scheme.

! On March 8, 1999, the U.S. District Court in White Plains, New York, froze the assets of Five Star Auto Club, Inc. and the Sullivans, appointed a receiver to run the corporate defendant, and

² On May 4, 1999, the Commission voted 4-0 to dismiss its federal court case against Ralph Lewis Mitchell, Jr., doing business as **Mitchell Enterprises**, brought as part of "Operation New ID --Bad Idea," a law enforcement sweep focusing on companies that illegally encouraged consumers to create false credit identities. (FTC Matter No.: x990031).

enjoined the defendants from making further misrepresentations. On April 5, 1999, the same parties stipulated to a preliminary injunction. On April 8, 1999, the FTC filed an amended complaint naming Advance Funding, Inc., Thomas Lee Bewley, and Judy L. Bewley as defendants.

! On January 3, 2000, the court entered a stipulated permanent injunction against the Bewleys, prohibiting them from engaging in pyramid schemes and from making or providing others with the means of making material representations or omissions in connection with legitimate multi-level marketing programs. The settlement required that the defendants' business assets be used to establish a consumer redress fund.

! On May 17, 2000, following trial, the court ruled that Five Star was a pyramid scheme that prevented the vast majority of participants from realizing the rewards promised by the defendants. On June 13, 2000, the court issued its final order barring Michael and Angela Sullivan, for life, from engaging in any further pyramiding or multi-level marketing activity. The court also shut down Five Star and its Web site and ordered liquidation of its assets; ordered the defendants to pay \$2.9 million in consumer redress; and placed the Sullivans under strict conduct prohibitions when selling any business venture in the future.

<http://www.ftc.gov/opa/1999/9903/nasaarelease.htm> (press release - sweep)

<http://www.ftc.gov/opa/2000/01/fyi0002.htm> (press release - Bewley final order)

<http://www.ftc.gov/opa/2000/07/fivestar.htm> (press release - final judgment)

Mislabeled clothes in online catalogs

- 62. Wal-Mart Stores, Inc.** File No. 992 3007
- 63. Burlington Coat Factory Warehouse Corp.** File No. 992 3002
- 64. Delia's Inc.,** File No. 992 3008
- 65. Woolrich, Inc.,** File No. 992 3003
- 66. Gottschalks, Inc.,** File No. 992 3004
- 67. Bugle Boy Industries, Inc.,** File No. 992 3009

! Respondents: Wal-Mart Stores, Inc., Burlington Coat Factory Warehouse Corp., Delia's Inc., Woolrich, Inc., Gottschalks, Inc., Bugle Boy Industries, Inc. x(192)

! The above respondents agreed to settle FTC allegations that they violated the Textile Fiber Products Identification Act and/or the Wool Products Labeling Act and Commission rules under those Acts. The FTC alleged that the respondents failed, in their online promotional materials, to clearly and conspicuously state that each textile or wool item advertised or offered for sale was either imported, made in the USA, or a combination of both as required by law.

! In February 1998, the Commission adopted various streamlining amendments to the Textile and Wool Rules. It also revised definitions of mail order catalog and mail order promotional materials to include materials disseminated electronically via the Internet. Six months after the amendments were announced, the FTC surfed more than 200 sites to determine whether on-line sellers of textile products were complying with the origin disclosure requirements. These cases arose from the FTC's compliance surf.

! On March 16, 1999, the Commission voted to accept the proposed consents in these cases. After a public comment period, the Commission announced its final approval on June 10, 1999.

<http://www.ftc.gov/opa/1999/9903/musatex.htm> (press release - proposed consents)

<http://www.ftc.gov/opa/1999/9906/fyi17-99.htm> (press release - final consent)

Deceptive Internet mall promotions

68. iMall, File No. 972-3224 (stipulated final judgement approved Apr. 15, 1999)

! Respondents: iMall, Carl R. Pickering, and Mark R. Commer. x(195)

! The Commission alleged that, between July 1995 and August 1998, iMall used direct mail, radio ads, television informercials, a promotional cassette, and telemarketing calls to promote free seminars where consumers would hear about two Internet-related business opportunity programs. The iMall Opportunity Program offered investors the opportunity to become "consultants" and make money selling Web pages on the iMall site. The Internet Yellow Pages (IYP) program offered investors the opportunity to make money selling advertising space on the IYP Web site contained within the iMall site. The Commission alleged that, at these seminars, the respondents made false earnings claims for their Internet-based businesses and that they violated the Franchise Rule.

! On April 15, 1999, the Commission announced a \$4 million settlement with the respondents. The Stipulated Final Judgment and Order barred Craig R. Pickering and Mark R. Comer for life from selling any Internet or pay-per-call business opportunity; barred them for 10 years from selling franchises; required a \$500,000 bond before selling certain types of business opportunities; and barred future violations the Franchise Rule. iMall was permanently barred from violating the Franchise Rule and from misrepresenting material facts about any business opportunity it promotes. The Order called for iMall to pay \$750,000 and Pickering and Comer to pay \$3.25 million in consumer redress.

<http://www.ftc.gov/opa/1999/9904/imall1.htm> (press release - consent)

False claims for "Vitamin O"

69. Rose Creek Health Products, Inc., (E.D. Wa. filed March 11, 1999)

! Defendants: Rose Creek Health Products, Inc., The Staff of Life, Inc., Donald L. Smyth x(198)

! Defendants sold 2 ounce bottles of Vitamin O for \$20 to \$25, claiming that it enriched the bloodstream with supplemental oxygen. The defendants' ads -- which appeared in USA Today and in other newspapers, and on the Internet -- also claimed that Vitamin O could cure or prevent serious diseases such as cancer, heart disease, and lung disease.

! The FTC filed suit in federal court, alleging that the defendants made false and unsubstantiated claims for a product that appears to be nothing more than saltwater. The Commission obtained a stipulated preliminary injunction from defendants and is seeking a permanent injunction.

! On April 28, 2000, the Commission filed a proposed consent settle this matter. Upon approval by the court, the settlement requires defendants to pay \$375,000 in consumer redress and

defendants from making false or unsubstantiated claims about Vitamin "O" and any other food drug or dietary supplement, and from making any false or unsubstantiated claims about medical research studies or the endorsement of any academic, scientific, or government organization. The order also bars defendants from passing on deceptive promotional material for their distributors to use and bars defendants from falsely representing that any user's testimonial reflects a typical experience.

<http://www.ftc.gov/opa/1999/9903/rosecreek.htm> (press release - complaint)

<http://www.ftc.gov/opa/2000/05/rosecreek2.htm> (press release - proposed consent)

More "spam" scammers

70. LS Enterprises, Docket No. C-3884 (final consent Aug. 2, 1999).

! Respondents: LS Enterprises, LLC, Internet Promotions, LLC, and Louis Salatto x(201)

! The Commission charged an online entrepreneur with making false and unsubstantiated claims in bulk e-mail messages. The respondents allegedly used spam to promote its bulk-e-mail program and other work-at-home business opportunities, and made false claims about their experience and ability to provide products or services, as well as false claims about free merchandise and potential income for purchasers.

! Following a public comment period, on August 2, 1999 the Commission announced its final approval of a settlement with respondents that bars them from making deceptive claims in future bulk e-mail and requires them to substantiate claims for the programs they promote. They also must post a \$100,000 bond before sending unsolicited commercial e-mail in the future.

<http://www.ftc.gov/opa/1999/9904/spam2.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1999/9908/FYI-20.99.htm> (press release - final consent)

Deceptive laundry products

71. FTC v. TradeNet Marketing, Inc., Civil Action No. 99-944-CIV-T-24B (M.D. Fla. stipulated judgements filed April 21, 1999)

! Defendants: L.W. Cooper and TradeNet Marketing, Erwin Richard Annau and Top Marketing Business Consulting, and Alberto Guerrero x(206)

! According to the FTC, the defendants falsely touted "The Laundry Solution" and "The SuperGlobe" as effective substitutes for laundry detergents. They allegedly claimed that these liquid-filled plastic balls would clean laundry without polluting the earth's waterways by emitting a negative charge or by means of "structured water" or "IE crystals."

! In three separate agreements reached with the defendants, the defendants are barred from claiming their laundry balls or any similar product cleans as well as conventional laundry detergent. The agreements also required the defendants to pay \$155,000 in satisfaction of monetary judgments. These funds are to be divided equally among the FTC and eleven states that participated in this action: Arizona, Arkansas, Hawaii, Idaho, Illinois, Michigan, Missouri, Nebraska, Nevada, New York, and Oklahoma.

<http://www.ftc.gov/opa/1999/9904/tradenet.htm> (press release - complaint/settlement)

Deceptive “pretexting” by online information broker

72. FTC v. James J. Rapp, et al (“Touch Tone”), Civil Action No. 99-WM-783 (D. Colo. filed April 21, 1999).

! Defendants: James J. Rapp and Regana L. Rapp, individually and doing business as Touch Tone Information, Inc. x(208)

! Touch Tone is an information broker that offers current bank numbers, brokerage account numbers, specific balances, and other personal information about individuals through its Web site at: <http://pidirectory.com/touchtone>

! On April 21, 1999, the FTC filed suit in federal court, alleging that the defendants engaged in illegal “pretext” calling, posing as consumers and calling banks and using deceptive means to obtain consumers' private financial information. The FTC's complaint alleges that Touch Tone engages in “deceptive” practices, in violation of Section 5 of the FTC Act, and that pretexting without a without consumers' knowledge or consent is also an “unfair” act practice in violation of the statute. Litigation is ongoing.

<http://www.ftc.gov/opa/1999/9904/touchtone.htm> (press release - complaint)

Operation New ID -- Bad Idea II – more promises of a new credit identity

73. FTC v. Donna Payne, d/b/a Strategic Information Services, (N.D. Ohio)

74. FTC v. Frederick P. Ray, d/b/a F.P.R., Civil Action No. 99-04703SVW (RNBx) (C.D. Cal.)

75. FTC v. James Fite, d/b/a Internet Publications Civil Action No. 99-04706JSL (BQRx) (C.D. Cal.)

76. United States of America v. David Story, d/b/a Network Publications (N.D. Tex.)

77. FTC v. John Williams, d/b/a Speed Credit (S.D. Tex.)

78. FTC v. Eric Volkert and Cynthia Volkert, d/b/a Fresh Start Publication, Civil Action No. H-99-1326 (S.D. Tex.)

79. FTC v. West Coast Publications, LLC. (C.D. Cal.)

! Defendants: Donna Payne, Frederick P. Ray, James Fite, David Story, John Williams, Eric Volkert and Cynthia Volkert, West Coast Publications, LLC. and Gilberto Lopez. o(217)

! Defendants offer credit repair kits for \$21.95 to \$129.95 through Internet Web sites and e-mail. They promise to give consumers a new credit identity, saying:

"Anyone can have a New Credit File virtually overnight. . . .";

"WIPE OUT ALL OF THE OLD BAD CREDIT ON YOUR OLD FILE. . . ."; and

"Credit Start Over. There's a way to obtain a new Social Security No. . . ."

! In its second crack-down against credit schemes in 1999, the Commission (and in one case the Dept. of Justice) filed suit alleging violations of Section 5 of the FTC Act and Section 404(a)(2) of the Credit Repair Organizations Act “CROA.” The government has sought injunctive relief and redress for consumers.

! In October 1999, The FTC announced that defendants in the **Frederick P. Ray, Internet Publications, and **Fresh Start** matters agreed to settle federal charges that the "file segregation" advice and products violated federal law.**

! The settlements will provide consumer redress for victims of the scam; bar future violations of the Credit Repair Organizations Act; bar deceptive claims about file segregation -- including claims that it is legal -- and require that the defendants notify their victims that using a false identification number to apply for credit is a felony. Thirteen of the sixteen settlements announced as part of the sweep provided for full consumer redress. Financial declarations filed by three defendants indicate an inability to provide redress. (Not all of the cases in the sweep were Internet related. Also, some of the cases included in the settlement are discussed during the first sweep from February 1999.) Their settlements contain provisions to allow reopening of the issue if defendants are found to have misrepresented their inability to pay. All the settlements contain record keeping provisions to allow the FTC to monitor compliance.

! The Commission votes to accept the proposed stipulated final judgments were 4-0.

<http://www.ftc.gov/opa/1999/9905/id21a4.htm> (press release - sweep)

<http://www.ftc.gov/opa/1999/9910/badidea.htm>

Financial information unfairly collected from children

80. Liberty Financial Companies, Inc., FTC File No. 982 3522 (consent announced May 6, 1999)

! Respondent: Liberty Financial Companies, Inc. x(218)

! Respondent operates The Young Investor Web site, an Internet site directed at children and teens focusing on issues relating to money and investing. The Commission alleged that the site falsely represented that personal information collected from children in a survey would be maintained anonymously, and that participants would be sent an e-mail newsletter as well as prizes.

! The Commission reached a proposed consent that prohibits such misrepresentations in the future and would require Liberty Financial to post a privacy notice on its children's sites and obtain verifiable parental consent before collecting personal identifying information from children. The proposed consent has been published for public comment.

<http://www.ftc.gov/opa/1999/9905/younginvestor.htm> (press release - proposed consent)

Deceptive exercise equipment claims

81. Fitness Quest, Inc. Docket No. C-3886 (final consent Aug. 6, 1999)

! Respondents: Fitness Quest, Inc. and Robert R. Schnabel, Jr. x(220)

! Fitness Quest sold three exercise gliders -- Gazelle Glider, SkyTrek, and Airofit and two abdominal devices -- Abs Only Machine and Ab Isolator directly to consumers through infomercials, on the Internet and also through retailers. The FTC alleged that Fitness Quest made unsubstantiated claims that, under ordinary use, their exercise gliders would allow consumers to burn up to 1,000 calories an hour or, as in their ads for the abdominal exercisers, that the Ab

Isolator and Abs Only Machine were twice as effective as regular sit-ups.

! A proposed consent was announced on May 12, 1999. After a public comment period, the Commission announced its final approval on August 6, 1999. The consent with the respondents prohibits them from making a variety of weight-loss and related claims for their exercise equipment and weight-loss products without competent and reliable evidence.

<http://www.ftc.gov/opa/1999/9905/fitness.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1999/9908/fyi-21.99.htm>

Inconspicuous computer leasing terms

82. Dell Computer Corporation, Docket No. C-3888 (final consent Aug. 6, 1999)

83. Micron Electronics, Inc., Docket No. C-3887 (final consent Aug. 6, 1999)

! Respondents: Dell Computer Corporation, Micron Electronics, Inc. x(232)

! Dell and Micron design, manufacture, and market computer systems for consumers and businesses. According to the FTC, the companies disseminated misleading leasing ads through television, print, or the Internet. The FTC alleged that the Dell and Micron placed material cost information in inconspicuous or unreadable fine print or omitted such information altogether.

! The Commission's settlements with Dell and Micron would require the companies to provide consumers with clear, readable, and understandable information in their lease advertising.

<http://www.ftc.gov/opa/1999/9905/dell.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1999/9908/fyi-21.99.htm> (press release - final consent)

The FTC's first action against unnamed defendants

84. FTC v. Benoit (aka One or More Unknown Parties), Civil Action No. 3:99 CV 181 (W.D.N.C. filed May 11, 1999)

! Defendant(s): Andrew Wells Benoit, Susan Carroll, WorldNet, Inc. o(235)

! Defendants allegedly sent consumers a deceptive e-mail message in order to get them to place expensive overseas calls. According to the FTC, the defendants sent consumers an e-mail informing them that their "order" had been received and processed and that their credit card would be billed \$250 to \$899. The e-mail advised consumers that if they had questions about their "order," they should call a telephone number in the 767 area code. Consumers didn't know the area code was in a foreign country, Dominica, West Indies, and rather than reaching a customer "representative," consumers were connected to an audiotext entertainment service with sexual content. Consumers incurred expensive telephone charges for this unhelpful international, long-distance call.

! In its first ever "John Doe" complaint, the FTC charged the defendants with violating Section 5 of the FTC Act. On May 11, 1999, the Commission sought and obtained an asset freeze from the Court, thereby stopping any flow of money to the defendants through the telephone payment system.

<http://www.ftc.gov/opa/1999/9905/audiot10.htm> (press release - complaint/TRO)

Modeling scheme

85. FTC v. Screen Test U.S.A., Inc., Civil Action No. 99-2371 (WGB) (D.N.J. filed May 24, 1999)

! Defendants: Screen Test U.S.A., Inc., Fred Vanore d/b/a Vanore Productions, World Wide Casting, Inc., American Child Actor and Modeling Association, Inc., Premier Marketing, Inc. d/b/a Screen Test U.S.A., Alice B. McManus, R. J. Ims Corp. d/b/a Screen Test U.S.A., Richard J. Ims, Jr., Premier Marketing, Inc. d/b/a Screen Test U.S.A., Showbiz Central of Westchester, Inc. d/b/a Screen Test U.S.A., John T. Yannielli, Tomorrow's Stars, Inc., Edward J. Bauer, and Helen J. Bauer, Angela Ims, Jeffrey C. McManus and JCM Marketing, Inc., and Thomas J. Yannielli x(252)

! The Commission alleges that, via television, radio, Internet and newspaper ads, Screen Test U.S.A. deceptively markets a \$45 "screen test" and other services to consumers. To add credibility to their activities, Screen Test U.S.A. encourages parents to check the company out with the American Child Actor and Modeling Association (ACAMA) -- a purported non-profit organization at www.acama.com. According to the FTC, ACAMA is actually a shell corporation of the owner of Screen Test U.S.A., Fred Vanore.

! On May 24, 1999 the FTC filed suit under Section 5 of the FTC Act alleging that defendants have misrepresented the objective or professional quality of their "screen tests" and pictures, customers' rates of success, and the independent status of ACAMA. The FTC also alleged violations of the Cooling-Off Rule, 16 C.F.R. Part 429.

! The Court granted the FTC's motion for and *ex parte* TRO, with an asset freeze and appointment of a receiver, and approved stipulated preliminary injunctions against all defendants. The New York City Department of Consumer Affairs, the Connecticut Department of Consumer Protection, and the Attorneys General for Pennsylvania, New Jersey and Florida also filed separate lawsuits against the defendants and provided tremendous assistance to the FTC.

! On February 3, 2000, the FTC announced settlements with all defendants, including four added to an amended complaint. The settlement permanently banned defendants from marketing and selling their purported "screen test services" and prohibited them from misrepresenting: 1) the need for or use of photographic services; 2) the experience or professional qualifications of any person; 3) the likelihood of business or employment success; and 4) the independence or objectivity of any nonprofit organization. The order also barred defendants from violating the Cooling-Off Rule and from distributing or selling their customer lists or identification information. The settlements also called for payment of \$972,000 in consumer redress.

<http://www.ftc.gov/opa/1999/9905/screen.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/2000/02/screentestusa.htm> (press release - settlement)

Small Business Sweep – Web site “cramming” cases

86. FTC v. Shared Network Services, LLC, et al. CIV. S-99-1087 WBS JFM (E.D. Cal. filed June 2, 1999).

87. FTC v. WebViper, LLC, et al., 99-T-589-N (M.D. Ala. filed June 9, 1999).

88. FTC v. Wazzu Corporation, et al., SACV-99-762-AHS (C.D. Cal. filed June 7, 1999).

! Defendants: Shared Network Services d/b/a First Page, Peter Westbrook, WebViper, LLC d/b/a Yellow Web Services, Tigerhawk, LLC d/b/a Yellow Web Services, Thomas J. Counts, Patrick C. Taylor, Richard M. Bagdonas, Wazzu Corp., Jayme Amirie, Kenneth Gharib, and Kirk Waldfogel. o(263)

! The defendants allegedly charged small businesses for “free” Web site services. According to the Commission, the defendants offered small businesses Web sites for a free 30-day trial period. Small businesses allegedly were told that they would have 30 days to cancel, that they would have a free period of time to review a sample Web site or written materials, or that they could sign up for 30 days without any obligation whatsoever. In each case, however, the Commission charged that small businesses had unauthorized fees “crammed” onto their phone bills (Shared Network and Wazzu) or direct invoices (WebViper).

! The Commission filed three separate lawsuits in early June 1999, alleging that the defendants had deceived small businesses through their telemarketing solicitations and billing practices.

! In the **Shared Network Services** matter, TRO and asset freeze were entered on June 3, 1999. A Stipulated Preliminary Injunction was entered on June 7, 1999 and a Final Judgment and Order for Permanent Injunction and Consumer Redress was entered on June 12, 2000. The order enjoins defendants from misrepresenting that they will not charge customers for website services before the end of a trial period, and that they will not charge customers who cancel before the end of a free trial period, or within some specified period. The order also requires that defendants not charge customers for website services unless the customer takes affirmative steps to order the web services. The order prohibits defendants from representing that consumers are legally liable to pay for unauthorized services. Defendants are also permanently enjoined from billing after a free trial period and must pay valid refund requests within 7 days. The order also sets forth certain requirements if they record a sales pitch. Finally, the order requires that defendants redress a specified class of consumers; however, the amount of redress has not yet been established.

! In the **Web Viper** matter, defendant Bagdonas was dismissed and a Final judgment and order was filed May 30, 2000, which enjoins the remaining defendants from misrepresenting that they are obligated to pay for services received during a free trial period or for unauthorized services; enjoins defendants from billing prior to three days after the expiration of the trial period; and requires defendants to honor cancellation requests. A judgment of \$88,426.25 was suspended.

<http://www.ftc.gov/opa/1999/9906/small9.htm> (press release - complaints)

Operation Cure.all cases

- 89. **Magnetic Therapeutic Technologies, Inc.**, 982-3150
- 90. **Pain Stops Here!, Inc.**, File No. 982-3175
- 91. **Melinda R. Sneed and John L. Sneed d/b/a Arthritis Pain Care Ctr**, File No. 982-3182
- 92. **Body Systems Technology, Inc.**, File No. 982-3177

! Respondents: Magnetic Therapeutic Technologies, Inc. and Jim B. Richardson; Pain Stops Here! Inc. and Sande R. Caplin; Melinda R. Sneed and John L. Sneed d/b/a Arthritis Pain Care Center; Body Systems Technology, Inc., William E. Chace, and James D. Davis. x(272)

! The Commission announced four cases that resulted from the agency's previous "Health Claims Surf Days" -- law enforcement surveillance sweeps in 1997 and 1998 by officials in over 25 countries. The cases involved settlements with companies and individuals that allegedly used the Internet to make deceptive and unsubstantiated health claims concerning "miracle cures" for serious illnesses -- including cancer, arthritis, heart disease, and liver disease.

! *Magnetic Therapeutic Technologies, Inc.* (MTT) and *Pain Stops Here!, Inc.*, (PSH) allegedly made unsubstantiated health claims about their magnetic therapy products. MTT allegedly represented that its products could treat cancers, HIV, high blood pressure, and other conditions, while PSH. allegedly represented that its devices could effectively treat cancer, liver disease, arthritis, and other ailments. The consent order prohibits MTT and PSH from making unsubstantiated health claims in the future.

! *John Sneed and Melinda Sneed d/b/a Arthritis Pain Care Center* (APCC) marketed CMO, a fatty acid from beef tallow, and allegedly claimed that it could cure most forms of arthritis and treat numerous other diseases. The FTC charged that APCC's efficacy claims were unsubstantiated and that its claims about NIH and other scientific studies were false. The settlement prohibits APCC from making unsubstantiated claims for any food, drug, dietary supplement or program.

! *Body Systems Technology, Inc.* (BST) allegedly sold shark cartilage capsules as well as capsules and liquid containing a Peruvian plant derivative called Cat's Claw. The allegedly promoted these products as scientifically-proven treatments for cancer, HIV/AIDS, and arthritis. The FTC charged that BST's claims were unsubstantiated. The consent order prohibits BST from making unsubstantiated health claims for any food, drug, dietary supplement or program. Also, the order requires BST to identify and make refunds to purchasers of their products.

! All four proposed settlements were announced on June 24, 1999. After a public comment period, the Commission gave final approval to these settlements on Sept. 20, 1999.

<http://www.ftc.gov/opa/1999/9906/opcureall.htm> (press release - proposed consents)

<http://www.ftc.gov/opa/1999/9909/fyi990920.htm> (press release - final consent)

Another deceptive laundry product

93. FTC v. OneSource Worldwide Network, Inc. 3-99 CV1494-L (N.D. Tex. complaint and stipulated final judgment filed July 1, 1999).

! Defendants: OneSource Worldwide Network, Inc. and James Michael Fobair. x(274)

! Defendants marketed The EarthSmart Laundry CD for \$80 on the Internet and elsewhere. The CD is a plastic disc -- purportedly filled with "structured water" -- to be used in washing machines instead of conventional detergents. The FTC alleged that defendants misrepresented that the Laundry CD cleans as well as conventional detergents. The FTC also alleged that the defendants made other false or unsubstantiated scientific, environmental and efficacy claims and that their testimonials did not reflect consumers' typical or ordinary experience.

! A proposed settlement filed in federal court on July 1, 1999 would prohibit defendants from claiming that the Laundry CD or any similar product cleans as well as conventional laundry detergent and would require them to pay \$50,000 in disgorgement. These funds are to be divided equally among the FTC and six states that participated in this action: Arkansas, Illinois, Michigan, Missouri, Nevada and Texas. The order would prohibit the defendants from making

unsubstantiated claims or misleading testimonials, and provides an avalanche clause of \$7.5 million in the event the defendants are found to have given false financial data to the FTC.

<http://www.ftc.gov/opa/1999/9907/onesource.htm> (press release - complaint/settlement)

94. FTC v. David Martinelli, Jr., 3:99 CV 1272 (CFD) (D. Conn. July 1999)

! Defendants: DP Marketing, David Martinelli, Jr. (a/k/a David Martin) and Deana Plourde x(277)

! Defendants allegedly sent consumers unsolicited e-mail or “spam” and represented that consumers could make \$13.50/hr working at home processing applications for credit, loans or employment, and as a consumer service representative. Defendants sold a “how to” kit for 9.95 to \$28.72, but it allegedly only included instructions to place advertisements identical to the ones they had responded to. Consumer allegedly could only earn money by recruiting others to pay for the same information. The FTC alleged that defendants violated federal law by making false earnings claims, by failing to disclose that they were offering a pyramid work-at-home scheme; and by providing the “means and instrumentalities” to others to commit deceptive acts.

! The defendants agreed to a stipulated preliminary injunction, which the Court entered on Sept. 23, 1999. The Order prohibited further misrepresentations, pending a full trial.

! In November 2000, defendants agreed to a stipulated final judgment and order in order to settle the charges. The agreement bars future participation in pyramid schemes, bars misrepresentation of earnings and income potential, and requires that if the defendants make earnings claims in connection with a multilevel marketing program, they clearly and conspicuously disclose the actual profits made by participants and the percentage of participants who have made such profits before accepting payment from investors. It prohibits false or misleading statements or misrepresentations in the marketing, sale, or distribution of any product or service and prohibits the defendants from providing others with the means and instrumentalities to commit deceptive acts. The settlement also contains various record keeping and reporting requirements designed to assist the FTC in monitoring the defendants' compliance. The order imposes a judgment of \$72,312 for consumer redress, based on financial declarations provided by the defendants. Should the court find that the defendants misrepresented their financial situations, \$430,140, the total amount paid by consumers to DP Marketing, becomes due.

! The Commission's vote to approve the filing of the proposed consent judgment was 5-0. It was filed by the FTC in the United States District Court for the District of Connecticut, and entered by the Court on November 14, 2000.

<http://www.ftc.gov/opa/1999/9907/dpmarket.htm> (press release - complaint)

<http://www.ftc.gov/opa/2000/11/dpfinal.htm> (press release - stipulated final judgment)

Another Web site “cramming” case - part of Small Business Sweep

95. FTC v. Web Valley, Inc. et al, Civil Action No. 99-1071 DSD/JMM (D. Minn. filed July 14, 1999)

! Defendants: Web Valley, Inc., Profile National Business Directory, Inc., Protel Advantage, Inc., U.S. Protel, Inc., Satya P. Garg, Blaine C. Christofferson, and Scott D. Lee. o(284)

! Defendants, through their telemarketing operations, called consumers touting the business benefits of having an Internet presence and offered to design and host an Internet Web site for a "free" 30-day trial period. The FTC charged that the telemarketers failed to disclose to consumers that, unless consumers initiated contact to cancel the service, the defendants would automatically charge consumers monthly fees of \$19.95 or \$24.95. Consumers allegedly were never told that these charges would be added to their local phone bills. The agency alleges that the scheme took in up to \$9 million for unordered services.

! The FTC filed suit on June 14, 1999 and obtained an *ex parte* TRO with a receiver and a freeze over the defendants' assets. On July 22nd, the Court granted a preliminary injunction against the defendants, without a receiver or an asset freeze.

! A stipulated permanent order against the Web Valley defendants was entered on June 5, 2000 in the District Court of Minnesota. The order resolved allegations that defendants fraudulently charged consumers' telephone bills for unordered and unauthorized web pages. The order provides for \$3,050,000 of consumer redress. The defendants have directly paid about \$1.4 million and the remainder will come from reserve funds held by two thirty party aggregators. In addition to providing redress, the order prohibits violations of Section 5 and contains fencing-in relief. It also requires that the defendants post performance bonds if they telemarket web sites or Internet-related services.

<http://www.ftc.gov/opa/1999/9907/webvalley.htm> (press release - complaint/TRO)

Operation Trip Trap – Online travel scams

96. FTC v. American Int'l Travel Serv., Inc., Civil Action No. (S.D. Fla. July 1999)

! Defendants: American International Travel Services, Inc. d/b/a Magic World Tour & Travel, Silver Lake Resort, Ltd., Alfred H. Jugo, A.J. Stanton, Jr., and Lawrence S. Gilbert. o(289)

! Defendants initially solicited consumers via the Internet, direct mail, and out-bound telephone calls. These initial contacts led to a telemarketing solicitation in which the defendants allegedly told consumers that they had won or been specially selected to receive vacations to Florida, the Bahamas, or other destinations.

! The FTC alleged that defendants operated a common enterprise to deceive consumers, in violation of the FTC Act and the Telemarketing Sales Rule (TSR). The defendants allegedly misrepresented the nature of the vacation packages offered and failed to disclose restrictions and conditions on the packages, including the requirement that consumers attend one--and sometimes two--sales pitch seminars for a timeshare purchase during their trip. Defendants also allegedly failed to disclose their refund policies and material aspects of their prize promotions.

! On July 27, 1999, the court entered an *ex parte* TRO with asset freeze entered against the defendants and a stipulated preliminary injunction was entered on Aug. 6, 1999.

<http://www.ftc.gov/opa/1999/9908/triptrap.htm> (press release - complaint/TRO)

97. FTC v. Cerkvenik-Anderson Travel, Inc., d/b/a College Tours, Student Tours, and Mexico Tours Civ. Action No. (D. Ariz. filed July 1999)

! Defendants: Cerkenik-Anderson Travel, Inc. d/b/a College Tours, Student Tours and Mexico Tours, and Andy Anderson. o(291)

! The FTC filed suit in federal court alleging that defendants violated the FTC Act by misrepresenting the nature of spring break and post-graduation vacations to college students and their parents. The defendants allegedly misled purchasers about the quality of accommodations offered and the cost or value of various benefits and activities they arranged.

! On December 28, 1999, the Court entered a stipulated agreement having the force of a preliminary injunction.

<http://www.ftc.gov/opa/1999/9908/triptrap.htm> (press release - complaint)

Rolling Internet Pyramid Sweep - large pyramid promoting environmental and health products

98. FTC v. Equinox Int'l Corp. et al, Civil Action No. CV-S-99-0969-JBR-RLH (D. Nev. filed Aug. 3, 1999)

! Defendants: Equinox International Corporation, Advanced Marketing Seminars, Inc., BG Enterprises, Inc., and William Gould. x(295)

! Defendants allegedly operated a multi-level marketing company which offered distributorships for products including water filters, vitamins, nutritional supplements, and skin care products. Equinox distributors ran classified ads in the "Help Wanted" sections of newspapers which implied that a salaried position was being offered. Persons who responded to the ads allegedly were given a sales presentation designed to recruit new distributors. Equinox also advertised and communicated with distributors through its Web site at www.equinoxinternational.com. This site contained several testimonials and information about distributorships, Equinox products and payout plans.

! The FTC and 5 states filed a joint action on Aug. 3, 1999, alleging that the defendants operated a pyramid scheme, made false earnings claims, failed to disclose material information, and violated the FTC Act as well as state securities laws, deceptive trade practices laws, false advertising laws, pyramid laws, and licensing requirements. State co-plaintiffs were Hawaii, Maryland, Nevada, North Carolina, Pennsylvania, South Carolina - later joined by Tennessee, Michigan, and Virginia, with South Carolina dropping its suit. The Court granted the FTC and states' request for an *ex parte* TRO and imposed a freeze on the defendants' assets and a receivership over their business.

! On Sept. 14, 1999, after a full hearing, the Court issued a modified preliminary injunction against the defendants. Pending a full trial, the Order prohibits any pyramid activity or misrepresentations about earnings. It requires defendants to modify their business terms and keeps a receiver in place to monitor defendants' business and prevent the dissipation of assets.

! Trial began April 3, 2000 and after the FTC and the states had presented their case, the parties reached a final settlement. The Court approved a provisional stipulated final judgment and order on April 20, 2000. The settlement bars Gould, for life, from engaging in any multi-level marketing operations. It also orders that cash and corporate and individual assets be placed in the hands of the court-appointed receiver for liquidation. The assets have an estimated liquidated value of \$40 million to \$50 million. Proceeds from the sale of assets will be used for consumer redress and payment of certain court-approved expenses, including the payment of states plaintiffs' fees and costs and fees and costs to defendants' and private class action plaintiffs' lawyers.

<http://www.ftc.gov/opa/1999/9908/equinox1.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/2000/04/equinox.htm> (press release - settlement)

“Guaranteed” credit cards

99. FTC v. Credit National, et al, 99 CV 07989 (C.D. Cal. filed Aug. 5, 1999)

! Defendants: Credit National, Inc. and Mark Wolf, d/b/a Credit America o(297)

! Defendants allegedly marketed "guaranteed approved" credit cards and lines of credit to consumers in print, direct mail, and Internet ads and invited consumers to call an "800" number. Consumers who called the number were sent a packet of materials containing written guarantees of unsecured credit cards regardless of past credit history, along with applications requiring a \$28 fee. Consumers who paid the fee received various credit card applications or nothing at all, rather than the promised credit cards.

! The FTC filed suit in federal court alleging violations of the FTC Act and the Telemarketing Sales Rule. The Court granted the Commission's motion for an *ex parte* Temporary Restraining Order with an asset freeze and the appointment of a receiver. A preliminary injunction was entered on August 23, 1999.

<http://www.ftc.gov/opa/1999/9908/operationafl.htm> (press release-sweep/complaint)

The FTC's 100th Case: cross-national action against page jacking and mouse trapping

100. FTC v. Carlos Pereira d/b/a atariz.com, Civil Action No. 99-1367-A (E.D. Va. filed Sept. 14, 1999)

! Defendants: Carlos Pereira, WTFRC, Pty Ltd., Guiseppe Nirta, Gregory Lasarado o(301)

! Defendants allegedly engaged in “pagejacking” and “mouse trapping” to drive unsuspecting consumers to adult sites and hold them there. According to the FTC, defendants first captured and made counterfeit copies of over 25 million Web pages. They then inserted a “redirect” command in these counterfeit pages and placed them under defendants' Web site, usually at www.atariz.com. When consumers used a search engine to look up information on the Internet, they sometimes pulled up listings for defendants' counterfeit sites. Though these listings described pages devoted to recipes, kids games, automobiles or other everyday topics, if a consumer clicked on the listing for a counterfeit site, he was taken immediately to sexually explicit adult Web sites operated by defendants. Once there, a consumer could not easily leave because defendants disabled a consumer's normal browser functions. If he tried to escape by hitting the “back” or “close it” buttons on his browser, the consumer would just receive more pages of graphic sexual content.

! On September 14, 1999, the Commission filed suit and alleged that defendants had violated Section 5 of the FTC Act. The FTC alleged that defendants had deceived consumers by pagejacking Web sites and misleading consumers about where they were going. The FTC also alleged that defendants had engaged in illegal and unfair practices when the mouse trapped consumers and preventing them from leaving defendants' sites. The Court granted the FTC's motion for an *ex parte* Temporary Restraining Order with a provision to suspend several of defendants' domain name registrations. On September 21, 1999, the Court issued a Preliminary Injunction and continued these suspensions.

! The FTC cooperated closely with the Australian Competition and Consumer Commission in this case. The ACCC executed search warrants on the business premises of the Australian defendants and looked into possible criminal or civil actions in that country.

! The FTC amended its complaint and added Gregory Lasarado on February 9, 2000.

! On February 28, 2000, the Court entered default judgments and permanent injunctions against WTFRC and Nirta, barring further "pagejacking" or "mouse trapping" and permanently suspending the domain names they had used to perpetuate their scheme.

<http://www.ftc.gov/opa/1999/9909/atariz.htm> (press release - complaint/TRO)

Another large Web site cramming case - part of Small Business Sweep

101. FTC v. U.S. Republic Communications, Inc., Civil Action No. H-99-3657 (S.D. Texas filed Oct. 21, 1999).

! Defendants: U.S. Republic Communications, Inc. and T. Gary Remy x(303)

! Remy and U.S. Republic allegedly used telemarketers to target small businesses, offering to design and host Web sites on a free trial basis. They claimed their service included "registering" the small businesses' Web sites with major Internet search engines to drive potential customers to the sites. The small businesses allegedly were told that they would receive paperwork about the Web site and that no charges would be incurred unless the business ordered the Web site on a permanent basis. Despite their claims, U.S. Republic added charges of \$25 a month to the telephone bills of small businesses, often when the defendants had not sent a sample Web site design or when the small businesses had rejected the offer. Many times the defendants continued to charge small businesses even after they stated they had "canceled."

! The FTC alleged violations of Section 5, and the defendants entered into a Stipulated Final Order to settle these allegations. The order bars the defendants from misrepresenting their Web site services and from misrepresenting that consumers are under no obligation and will not be charged during a trial period. The Order requires defendants to disclose, in certain instances, that they cannot guarantee that a Web site will be indexed or listed by major search engines. The Order also requires that approximately 124,000 small businesses be notified that they may have a right to cancel their Web site and collect redress.

! The Commission's complaint and the Stipulated Final Order were filed on Oct. 21, 1999 in federal district court for the Southern District of Texas. Through the redress process, defendants returned \$2.8 million to consumers

<http://www.ftc.gov/opa/1999/9910/republic2.htm> (press release - complaint/stipulated final order)

Unsubstantiated body-building supplement claims

102. FTC v. AST Nutritional Concepts & Research, Inc., et al, Civ. No. 99-WI-2197 (D. Colo. filed Nov. 15, 1999)

103. FTC v. MET-RX USA, Inc., et al. Civil Action No. SAC V-99-1407 (C.D. Cal. filed Nov. 15, 1999)

! Defendants: AST Nutritional Concepts & Research, Inc. and Paul Delia; Met-RX USA, Inc. and Met-RX Substrate Technology, Inc. x(307)

! On their Web sites and through direct sales, magazines and retail stores, defendants allegedly advertised that their health supplements would increase strength and muscle mass "safely and with minimal or no negative side effects." The companies' androgen products contained various combinations of the steroid hormones androstenedione, androstenediol, norandrostenedione, and/or norandrostenediol. These substances convert in the body to testosterone, estrogen, and/or other potent hormones, and allegedly could pose safety risks and unwanted side effects similar to those of more potent hormones.

! The FTC challenged the companies' lack of substantiation for the safety or lack of side effects of their products. Without admitting liability, the defendants entered into stipulated final orders which would prohibit them from making unsubstantiated efficacy, performance or safety claims about their products. The proposed orders also would require the following labeling and advertising disclosure for any androgen supplement for which any efficacy, performance, or safety claim is made:

WARNING: This product contains steroid hormones that may cause breast enlargement, testicle shrinkage, and infertility in males, and increased facial and body hair, voice deepening, and clitoral enlargement in females. Higher doses may increase these risks. If you are at risk for prostate or breast cancer you should not use this product.

Finally, the proposed orders also would require the following labeling and advertising disclosure for any androgen supplement containing ephedra (also known as ephedrine):

WARNING: This product contains ephedra. Taking more than the recommended serving may result in heart attack, stroke, seizure or death. Consult a health care practitioner prior to use if you have high blood pressure, heart or thyroid disease, diabetes, difficulty urinating, prostate enlargement, or glaucoma, or are using any prescription drug. Do not use if you are taking a MAO inhibitor or any allergy, asthma, or cold medication containing ephedrine, pseudoephedrine, or phenylpropanolamine. Discontinue use if dizziness, sleeplessness, loss of appetite, or nausea occurs.

<http://www.ftc.gov/opa/1999/9911/astmetrx.htm> (complaints/stipulated final orders)

! The Commission's complaints and the Stipulated Final Orders were filed on Nov. 15, 1999 in the federal district courts for the District of Colorado (AST) and the Central District of California (Met-Rx).

Y2K investment scheme

104. FTC v. Selket Precious Metals, Inc., et al (E.D. Cal. November 1999)

! Defendants: Selket Precious Metals Inc., and Paul H. Byus x(309)

! The defendants promoted two types of investments through Internet promotions and follow-up telephone pitches: shares of stock in Selket and certificates redeemable for gold from the company's mine. Potential investors allegedly were assured that an investment in Selket stock

would appreciate, because Y2K related concerns would drive up the price of gold, and that gold certificates purchased would be just like money in the chaos following January 1, 2000.

! The Commission alleged that defendants made false claims about short-term investment returns and risk. The company entered into a stipulated final judgment which bars Selket from making false representations about the potential risk and return of investments in its mining operations, that its mine will be operational in any given period of time, that the value of any ore deposits has been proven, or that a known quantity of ore will be mined. In addition, the proposed order broadly prohibits Selket from misrepresenting the risk, value or any other fact material to any investment or investment offering.

! The complaint and stipulated final judgment were filed in the United States District Court, Eastern District of California on November 16, 1999.

<http://www.ftc.gov/opa/1999/9911/selket.htm> (press release-complaint/final order)

Defective HIV home test kits

105. FTC v. Cyberlinx, Civ.Act.#CV-S-99-1564-PMP-LRL (D. Nev. November 1999)

! Defendants: Cyberlinx and Jeffrey Stein x(311)

! Defendants marketed HIV home test kits on the Internet and claimed that the tests accurately detected HIV infection in humans. However, the FDA tested the kits sold by Cyberlinx using blood serum samples known to contain antibodies to HIV (HIV-positive) and found that the test kits failed to consistently detect the presence of antibodies to HIV. On July 8, 1999, the FDA notified Cyberlinx's customers about the inaccurate test kit results. According to the FDA notification letter, the test kits were labeled "HIV ½ STAT-PAK Ultra Fast."

! The Commission alleged that defendants falsely represented the accuracy of their HIV test kits. Cyberlinx and Stein entered a stipulated final order which imposed a lifetime ban on them from marketing or selling any HIV home test kit. The order also required them to post a \$500,000 bond, or a \$1,000,000 if acting jointly, if they ever wished to market or sell any other medical device. Cyberlinx and Stein were required to pay the FTC money they received from the sale of their HIV test kits and were barred from transferring, disclosing, or selling information regarding any person who paid any money to either of them in connection with the purchase of any HIV home test kit.

<http://www.ftc.gov/opa/1999/9911/cyberlinx.htm> (press release - complaint/final order)

106. FTC v. David M. Rothbart and Medimax Inc., Case No. 99-1485-Civ-ORL-LSA (M.D. Fla. filed Nov. 22, 1999)

! Defendant: David M. Rothbart and Medimax Inc. x(313)

! Rothbart's Web site, www.medimaxrx.com, offered several tests for a variety of diseases or conditions. The site prominently featured an HIV "rapid test" that was supposed to accurately detect HIV infection in human blood in 15 minutes. The FTC alleged that this HIV test was not approved for sale in the United States and that "nine of ten of Rothbart's HIV tests provided false negative results when tested with HIV-positive blood; the tenth test did not work at all."

! The Commission filed suit under seal on Nov. 22, alleging that Rothbart had violated Sections 5(a) and 12 of the FTC Act. The Court granted the FTC's motion for a Temporary Restraining Order, stopping him from engaging in the marketing or sale of HIV tests and freezing his assets.

<http://www.ftc.gov/opa/1999/9912/medimax.htm> (press release - complaint)

<http://www.ftc.gov/opa/2000/03/medimax3.htm>

Rolling Internet Pyramid Sweep – another pyramid promoting health products

107. FTC v. John T. Polk, Civil Action No. JFM 99CV 3679 (D. Md. filed Dec. 9, 1999)

! Defendants: John T. Polk, Patrick Farah, Peter Hirsch, USAsurance Group, Inc., AKAHI Corp., AKAHI.COM, Inc., 2XTREME Performance International, LLC., and AFEW, Inc. x(321)

! Defendants allegedly used Web sites, direct mail, infomercials, telemarketing and seminars to convince consumers they could make substantial income by investing in their multi-level marketing scheme, which marketed nutritional supplements, beauty, weight-loss and other products. Defendants also allegedly claimed their recruiting tools -- called "Businesses in a Box"-- would generate a specific level of earnings and help develop an investor's "downline." The FTC alleged that defendants' earnings claims were false, that 2Xtreme was actually a pyramid scheme, and that 2Xtreme provided deceptive promotional materials and other 'means and instrumentalities' to violate federal law.

! The FTC filed suit on Dec. 9, 1999 and requested entry of a preliminary injunction. Defendants Peter Hirsch, John T. Polk, and AFEW, Inc. stipulated to the entry of a preliminary injunction against them. After a two-day hearing that concluded February 25, 2000, the Court issued a preliminary injunction against the remaining defendants, prohibiting them from operating illegal pyramid schemes and from making misrepresentations pending trial. The injunctions also froze the individual and corporate assets to preserve them for consumer redress

! On September 5, 2000 the Commission approved a Stipulated Final Judgment and Order with Peter Hirsch.

! On January 29, 2000, the FTC announced that the remaining defendants, Polk, Farah and AFEW, agreed to settle Federal Trade Commission charges that the scheme violated federal law. The settlements contain a lifetime ban on the defendants from any involvement in any multi-level marketing program. One defendant, John T. Polk, will also be banned from involvement in any business opportunity offer and barred from selling or sharing any information about the consumers who joined the pyramid. Defendant Patrick Farah will be barred from misrepresenting business opportunities. The settlements contain judgments totaling \$2.5 million, \$1.4 million of which will be suspended based on financial disclosures provided by the defendants. Should the disclosure documents be found to be inaccurate, the entire \$2.5 million will become immediately payable. The Commission vote to accept the consent judgments was 5-0.

<http://www.ftc.gov/opa/1999/9912/2xtreme.htm> (press release-complaint)

<http://www.ftc.gov/opa/2000/04/2xtreme.htm> (press release - prelim injunction)

<http://www.ftc.gov/opa/2001/01/2xtreme.htm> (press release - stipulated final judgments)

Privacy violations and deceptive spam

108. FTC v. Reverseauction.com, Inc. Civil Action No. 000032 (D.D.C. filed Jan. 2000)

! Defendant: Reverseauction.com, Inc. x(322)

! According to the FTC, ReverseAuction allegedly agreed to comply with eBay's User Agreement and Privacy Policy, only to harvest eBay users' personally identifying information and spam eBay members with a message stating that their user ID's "will EXPIRE soon." According to the FTC's complaint, ReverseAuction violated the law when it violated the eBay User Agreement and Privacy Policy, sent deceptive spam, and misrepresented that eBay authorized the mailing.

! The FTC obtained a stipulated consent agreement and final order from ReverseAuction, which bars ReverseAuction from misrepresenting that it will comply with another site's privacy policy, that consumer's user IDs will expire, or that another site has authorized use of consumers' personal information. The order also requires ReverseAuction to provide notice to consumers who, as a result of receiving ReverseAuction's spam, registered or will register with ReverseAuction. In addition, the order requires ReverseAuction to delete, and refrain from using or disclosing, the personal identifying information of eBay members who received ReverseAuction's spam but who have not registered with ReverseAuction. Finally, the settlement requires ReverseAuction to disclose its own privacy policy and maintain records to allow the FTC to monitor compliance.

<http://www.ftc.gov/opa/2000/01/reverse4.htm> (press release - complaint/final order)

Wholesaler of defective HIV test kits

109. FTC v. Alfa Scientific Designs, Inc.

! Defendant: Alfa Scientific Designs, Inc. (SD Cal January 13, 2000) x(323)

! Alfa Scientific allegedly sold deceptive HIV test kits online to distributors such as Medimax, named previously in an FTC action. Alfa Scientific's Web site offered test kits in bulk and claimed that its HIV tests detected HIV antibodies in human whole blood or serum with "very high specificity and sensitivity." However, according to an FTC expert's report, in most instances, when tested with HIV-positive whole blood samples, Alfa Scientific's tests produced false negative results.

! The FTC filed suit, claiming that the company misrepresented that its tests accurately detected HIV infection, in violation of Section 5(a) and 12 of the FTC Act. Alfa Scientific stipulated to a preliminary injunction that prohibits it from advertising or selling any HIV test kits and from misrepresenting any material facts about, or the accuracy of, any HIV test kit pending a full trial.

! On January 16, 2001, the Commission announced that it had settled its lawsuit against Alfa Scientific, and amended its complaint to name as additional defendants Alfa Scientific's President, Naishu Wang, M.D., Ph.D., and the company's Chief Executive Officer, David F. H. Zhou, M.D., Ph.D. The Commission alleged in its amended complaint that Alfa, Wang and Zhou violated federal law when they represented on their Internet site that their "Alfa HIV-1/2 Rapid Tests" accurately detected HIV infection in human blood. According to the FTC, independent tests showed that Alfa's HIV tests produced false negative results when tested with HIV-positive whole blood samples.

! The settlement prohibits Alfa, Wang and Zhou from making false or misleading representations in connection with the advertising or sale of any HIV test, or any other medical device not approved by the U.S. Food and Drug Administration, including any claims regarding the accuracy of the tests. The settlement also requires the defendants to notify the Commission of any complaints or refund requests in the future and allows the Commission, for a period of five years,

to randomly select and test any HIV test or other unapproved device for accuracy.

<http://www.ftc.gov/opa/2000/01/alfa.htm> (press release - complaint/prelim injunction)

<http://www.ftc.gov/opa/2001/01/chembio.htm> (press release - complaint, order, statement of Commissioner Swindle)

Project Biz-illion\$ – deceptive business opportunities

- 110. FTC v. AMP Publications**, Web Publications, Inc., Ranjit Narayan dba Nationwide Publications, Inc., ANA Keilty dba Keilty Enterprises: No. SACV 00-112 AHS-ANX (C.D. Cal. filed Feb. 1, 2000)
- 111. FTC v. Home Professions, Inc.** Civ. No. SACV 00-111-AHA (EEEx) (C.D. Cal. filed Feb. 1, 2000),
- 112. FTC v. Innovative Productions and Shane D. Walls**, No. 3-00CV0312-D (N.D. Tex. filed Feb. 10, 2000)
- 113. FTC v. MediWorks, Inc.**, Civil No. 00-01079CAS (MANx) (C.D. Cal. filed Feb. 1, 2000)
- 114. FTC v. Transworld Enterprises, Inc.**, No. 00 8126-CIV-GRAHAM (S.D. Fla. filed Feb. 17, 2000)
- 115. U.S. v. Douglas C. McGlothlin**, Civ. No. 00-0243 (D. Ariz.), *filed* Feb. 9, 2000.
- 116. U.S. v. Worldwide Coffee, Inc.**, 00-8137 Civ. No. (S.D. Fla.), *filed* Feb. 11, 2000.

! Defendants: *AMP*-- AMP Publications, Inc., Computer and Web Publications, Inc., Ranjit Narayan, Ann Keilty; *Home Professions* – Home Professions, Inc., Telesalescenter.com, Michael Petok; *Innovative Productions* -- Innovative Productions and Shane D. Walls; *Mediworks* – Mediworks, Inc.; Mediworks; MediDistribution, Inc.; United Legal Assoc. d/b/a United Medical Assoc.; Robert Seals; Tate Stringer; Cory Dixon d/b/a Medipros; and Corinna Krueger; *Transworld* – Transworld Enterprises, Inc., d/b/a ATM Int'l., Mark Goldstein a/k/a Mark Davis, and James A. Mackey, Jr.; *McGlothlin* – Douglas C. McGlothlin and Anthony Simeonov, both d/b/a Int'l Cigar Consortium; *Worldwide Coffee*– Worldwide Coffee, Inc., Jeffrey M. Salley and Terri Salley, o(348)

! The FTC, the Justice Department and law enforcement officials from 29 states announced Project Biz-illion\$, a multi-pronged attack on business opportunity scams. As part of the sweep, the FTC, the Office of Consumer Litigation of the Department of Justice, state attorneys general and state securities officials filed over 68 cases against these deceptive schemes. The cases listed here involved solicitations made via Internet Web sites or email.

! The defendants here allegedly promised substantial income through work-at-home (AMP), medical billing (Home Professions, Mediworks), envelope stuffing (Innovative Productions), ATM vending (Transworld), cigar vending (McGlothlin), or coffee vending (Worldwide Coffee) opportunities. The FTC alleged that defendants specific earnings claims were false in violation of the FTC Act, and in some cases, that the defendants failed to provide an earnings claim document as required by the FTC's Franchise Rule.

! In February 2001, the court entered a \$4.9 million default judgment against AMP and Narayan and permanently banned them from engaging in the sale of work-at-home business opportunities.

Under a related settlement, CWP and Keilty are barred from marketing or selling any work-at-home business opportunity for seven years and are prohibited from making false and misleading statements when engaging in the promotion or sale of any product or service. The settlement further prohibits them from selling or disclosing their customer lists. Finally, the settlement contains various record-keeping provisions to assist the FTC in monitoring the defendants' compliance with the order.

! The Commission vote authorizing staff to file the proposed settlement was 5-0. The stipulated order for permanent injunctive relief was filed in the U.S. District Court for the Central District of California, in Santa Ana, on March 23, 2001, and entered by the court on March 27, 2001.

<http://www.ftc.gov/opa/2000/03/biz.htm> (press release - sweep)

<http://www.ftc.gov/opa/2001/04/cwp.htm> (press release - corrected order for permanent injunction and stipulated order for permanent injunctive relief)

Operation Cure.All2 cases -- one with deceptive “metatags” “mouseover text” and hyperlinks

117. CMO Distribution Centers of America, Inc., File No. 982 3180 (April 2000)

118. EHP Products, Inc. File No. 982 3181 (April 2000)

119. Michael D. Miller d/b/a Natural Heritage Enterprises, File No. 992 3225 (April 2000)

! Respondents: CMO Distribution Centers of America, Inc and Kalon Samulonis; EHP Products, Inc. and Elaine H. Parrish; and Michael D. Miller d/b/a Natural Heritage Enterprises x(353)

! The FTC alleged that defendants sold products containing cetylmyristoleate (CMO) or Essiac Tea and that they touted their products as being effective treatments or cures for various diseases, including arthritis, cancer, diabetes and AIDS, without adequate substantiation to support the claims.

! The FTC alleged that EHP and Miller used “metatags” to further their deceptive claims. Metatags are imbedded in a Web site’s source code and do not appear on a Web page visible to the consumer. Metatags are used by search engines to index and categorize Web sites. Here, EHP allegedly inserted keywords like “arthritis cure” and “medical breakthrough” in its metatags, and Miller allegedly inserted terms like “cancer treatment” and “cancer cures” in his metatags. Miller also allegedly attached text tags like “cures brain cancer” and “cures lupus” to graphics files on his site – text tags that would appear when a consumer’s cursor ran over graphics images. Finally, Miller also allegedly linked consumers to other Web sites that purportedly gave independent information about Essiac Tea, but in fact were created by Miller himself. These technical tricks, according to the FTC, exacerbated the deceptive nature of respondents’ claims.

! The FTC reached settlements with all the respondents in these cases. The consent orders bar Miller, CMO Distribution and EHP from making unsubstantiated claims for their respective products and for any food, drug, dietary supplement or program and from misrepresenting the results of any tests, study or research. The settlements also bar respondents from making any representations about the performance, safety, efficacy or health benefits of their products or any other food, dietary supplement or drug, without adequate substantiation. The orders require CMO Distribution and EHP to offer full refunds to consumers who purchased their products and to notify their distributors of the settlements and to monitor their future advertising. The settlement with

Miller would require him to pay \$17,500 in consumer redress and to notify purchasers that Essiac Tea has not been demonstrated to be an effective remedy in fighting cancer or any other disease.

<http://www.ftc.gov/opa/2000/04/cure-all2.htm> (press release - complaints & consents)

“Alternative” cigarettes - deceptive health claims

120. Alternative Cigarettes, Inc., Dkt No. C-3956 (April 2000)

! Respondents: Alternative Cigarettes, Inc., and Joseph Pandolfino x(355)

! Alternative Cigarettes marketed "Pure" and "Gold" tobacco cigarettes, as well as "Herbal Gold" and "Magic" herbal cigarettes through a Web site at www.altcigs.com and through other media. The FTC alleged that the company's advertisements implied, without a reasonable basis, that their tobacco-containing cigarettes were safer to smoke than other cigarettes because they contain no additives. The Commission also alleged that the company falsely implied that smoking its herbal cigarettes did not pose the health risks associated with smoking tobacco cigarettes.

! Under a settlement finalized on June 14, 2000, the company agreed to disclose prominently in future ads making a "no additives" claim: "No additives in our tobacco does NOT mean a safer cigarette." It also agreed to disclose prominently on packages and in ads for herbal cigarettes that: "Herbal cigarettes are dangerous to your health. They produce tar and carbon monoxide."

<http://www.ftc.gov/opa/2000/04/alt-cigs.htm> (press release-complaint & consent)

"Deceptive and noncompliant online ads for auto leasing and credit."

121. R.N. Motors, Inc. Docket No. C-3947 (April 2000)

122. Simmons Rockwell Ford Mercury, Inc., Docket No. C-3950 (April 2000)

! Respondents: R.N. Motors, Inc., Red Noland Cadillac, Inc., and Nelson B. Noland; Simmons Rockwell Ford Mercury, Inc.; Simmons Rockwell Autoplaza, Inc.; Don Simmons, Inc.; Donald M. Simmons, II., and Richard L. Rockwell. x(363)

! Respondents advertised auto leasing costs on their Internet Web sites. According to the FTC, the ads either failed to reveal the true lease costs, including costs due at lease inception, or buried key cost information in inconspicuous or unreadable fine print. The FTC charged that such practices violated the Consumer Leasing Act (CLA) and were misleading, in violation of the FTC Act. In addition, respondent Simmons Rockwell et al.'s online credit ads failed to disclose or failed to disclose clearly and conspicuously required credit terms, in violation of the Truth in Lending Act (TILA).

! Under a settlement finalized on June 6, 2000, respondents are barred from misrepresenting the costs or terms of vehicle leasing, including the amount due at lease inception. Various advertising restrictions apply to the respondents, including a prohibitions on disseminating lease promotions that state payment amounts, or state that any or no initial payment is required at lease signing or delivery, unless the ads also clearly and conspicuously disclose other key lease information, such as the total amount due at lease inception. All respondents agree to remain in compliance with the

CLA and Simmons Rockwell et al. agree to remain in compliance with the TILA.

! Final orders were issued against RN Motors et al. and Simmons Rockwell et al. in June 2000

<http://www.ftc.gov/opa/2000/04/leasing1.htm> (press release-complaint & consent)

Deceptive weight-loss claims

123. FTC v. Enforma Natural Products, Inc. Civil Action No.: 04376JSL(CWx) (C.D. Cal. filed April 25, 2000).

! Defendants: Enforma Natural Products, Inc., Andrew Grey, and Fred Zinos x(367)

! The defendants sold weight-loss pills called "Fat Trapper" and "Exercise In A Bottle" through television infomercials and their Web site at www.enformanatural.com. The FTC alleged that have settled FTC charges that they made false and unsubstantiated weight loss claims in their advertising of "The Enforma System."

! The FTC obtained two Stipulated Final Orders to settle its allegations. Both orders 1) prohibit the defendants from making unsubstantiated claims that any product, service or program causes or maintains weight loss or avoids weight gain without dieting or exercise, prevents fat absorption, increases metabolism, burns fat, or allows weight loss even if users eat high fat foods; 2) require that future weight loss claims be accompanied by a clear and prominent disclosure that reducing calorie intake and/or exercising more is necessary to lose weight; 3) require that the defendants have scientific substantiation for any claims about the health or weight loss benefits, performance, safety or efficacy of any product, service or program; and 4) prohibit false claims about the existence or results of any tests, studies, or research. The Stipulated Order with Enforma Natural Products and Grey required that they pay to the FTC \$10 million as consumer redress.

<http://www.ftc.gov/opa/2000/04/enforma.htm> (press release-complaint & consent)

Day trading cases

124. Computrade LLC, File No. 002-3085 (May 2000)

125. Ellery Coleman, File No. 002 3053 (May 2000)

126. Michael G. Chrisman and Michelle R. Chrisman, File No. 002 3113 (May 2000)

! Respondents: Computrade LLC and Bernard Lewis; Ellery Coleman d/b/a Granite Investments; Michael G. Chrisman and Michelle R. Chrisman D/b/a Daytrading International o(372)

! As part of a sweep conducted with the SEC and CFTC, the FTC targeted deceptive Internet "day trading" operations that sold combinations of 'real time' training, software programs, trading manuals, e-mail newsletters, and mentoring services for prices ranging from \$79 to \$4995. The FTC alleged that defendants promoted their systems using phony testimonials and claims such as ". . . Make money regardless of the market going up or down," ". . . return on account of 2041%," ". . . this service has returned an average of 167% annually." The FTC charged the operators with making unsubstantiated or false earnings claims or testimonial and deceptive claims about the risks of trading.

! The FTC obtained consent orders that bar false claims, including claims that day trading involves

little or no financial risk. All of the settlements require respondents to have substantiation for any earnings claims about income or profit or about any financial benefit from the purchase or use of any trading program. The settlements also require that future advertisements contain the disclosure, "DAY TRADING involves high risks and YOU can LOSE a lot of money."

"CURRENCY TRADING" and "FUTURES TRADING" would be substituted where appropriate.

<http://www.ftc.gov/opa/2000/05/daytrading.htm> (press release-complaints &consents)

127. FTC v. The Kohl Group, L.L.C., et al., Civil No. 00-06507 RSWL (Manx) (C.D. Cal. filed June 19, 2000). o(377)

! Defendants: The Kohl Group, LLC d/b/a Federal Information Services, Gregory Stewart Hall, Benjamin H. Kim, Douglas Lee, and Mark Arron Osborne.

! Defendants used the Internet, among other mediums to advertise their lists of foreclosed homes and lists of auction locations where, according to defendants, impounded and repossessed vehicles were sold. The defendants' classified advertisements, which invited consumers to call the company, appeared in the Internet versions of The Thrifty Nickel and The Pennysaver, in addition to the print versions of those papers.

! Consumers were induced into purchasing FIS's lists based on misrepresentations that characterized them as no-risk bargains. FIS also misrepresented that consumers could buy the foreclosed homes on its lists at prices substantially below their fair market values. The Los Angeles based defendants led consumers to believe that purchasing their lists was risk-free because of FIS's purported satisfaction-guaranteed refund policy. To the contrary, after paying for the lists, consumers learned from FIS's written materials that they had to meet certain previously undisclosed conditions in order to qualify for a refund. The refund conditions were onerous, and sometimes impossible to meet, effectively dissuading dissatisfied consumers from pursuing and obtaining refunds. In addition, FIS also improperly charged consumers' checking accounts and credit accounts without authorization.

! On June 19, 2000, the FTC filed a § 13(b) complaint, charging the defendants with: (1) falsely representing to consumers the availability of foreclosed homes substantially below their fair market price; (2) failing to disclose material conditions of their refund policy; and (3) assessing charges to credit cards and withdrawing money from bank accounts without authorization. The court issued a Temporary Restraining Order freezing the defendant's assets, appointing a receiver, and expediting discovery. On July 19, 2000, the court entered a stipulated preliminary injunction.

! On November 30, 2000, the court entered a stipulated Final Order. The settlement required defendant to pay \$1,138,428 for consumer redress, which is now being distributed among the victims. Defendants must post a \$100,000 bond if they continue to sell their foreclosed homes or auction lists, and they must disclose particular facts about the homes that appear on their lists. Defendants are also prohibited from violating the Telemarketing Sales Rule or making any material false representations. Additionally, within 15 business days after a request for a refund, defendants must provide a refund to consumers who have purchased any product or service subsequent to June 19, 2000.

<http://www.ftc.gov/opa/2000/06/auction.htm> (press release - complaint/order)

<http://www.ftc.gov/opa/2000/12/kohl.htm> (press release - settlement)

“Free” or low-cost PC’s

128. BUY.COM Inc., File No. 992 3282 (June 2000)

129. Value America, Inc., File No. 992 3206 (June 2000)

130. Office Depot, Inc., File No. 992 3313 (June 2000)

Respondents: BUY.COM Inc., Value America, Inc., Office Depot, Inc.

o(382)

! The FTC alleged that three retailers deceptively advertised the total costs of different computer systems by failing to inform consumers adequately that they would have to make a substantial up-front payment for a “free” or low-cost system, that consumers had to commit to a three-year contract with an Internet service provider, and that various other restrictions would apply, such as a penalty for early termination of the Internet service. The challenged advertisements appeared in newspapers, magazines, infomercials, radio, online banner ads and on company Web sites.

! The FTC obtained consent orders from all three retailers that prohibit any misrepresenting price or cost to consumers of any computer, computer-related product or Internet access service. If the companies advertise a price or rebate that is conditioned on the purchase of any other product or service, the companies must disclose clearly and conspicuously both that requirement and the price of the other product and service. The orders require clear disclosure of other restrictions, and the BUY.COM and Value America orders require clear and conspicuous disclosures of the amounts of any rebates and the before-rebate price. The Value American order requires the company to comply with the Mail Order Rule and to cancel orders and provide refunds to all customers who ordered a product before the agreement is final and whose order is more than 10 days late.

<http://www.ftc.gov/opa/2000/06/comp629.htm> (press release-complaints &consents)

Another Cure.all case - deceptive shark cartilage promotions

131. FTC v. Lane Labs-USA, Inc., et al Civil Action No. (D.N.J. filed June 28, 2000)

! Defendants: Lane Labs-USA, Inc., Cartilage Consultants, Inc., I. William Lane, and Andrew J. Lane

x(384)

! The FTC alleged that defendants engaged in a common enterprise to deceptively market BeneFin - a shark cartilage product -- and SkinAnswer - a skin cream - to consumers as cancer treatments. The FTC alleged that defendants had no substantiation for their treatment claims and falsely represented that the FDA had evaluated BeneFin and that clinical studies had shown BeneFin and SkinAnswer to be effective in preventing, treating, and curing cancer. The FTC alleged that Lane Labs bolstered its deceptive claims with embedded terms such as "non-toxic cancer therapy," "cancer treatment" and "cancer survivor" in its Web site's "metatags."

! The FTC obtained two separated Stipulated Final Orders which prohibit defendants from making unsubstantiated claims about any food, drug, or dietary supplement, including unsubstantiated claims that BeneFin (or any other shark cartilage product) or SkinAnswer (or any other glycoalkaloid product, prevents, treats or cures cancer. The orders prohibit defendants from making false claims about any tests, studies, or research and from misrepresenting that any

government agency has evaluated the efficacy or safety of any food, drug, or dietary supplement. The order with Lane Labs required payment of a \$1 million judgment, \$550,000 to the FTC and \$450,000 for a clinical study of shark cartilage sponsored by the National Cancer Institute and Lane Labs.

<http://www.ftc.gov/opa/2000/06/lanelabs.htm> (complaint and settlement)

The first COPPA case -- privacy violation by failed dotcom

132. FTC v. Toysmart.com, LLC, No. 00-11341-RGS, (D. Mass. filed July 10, 2000, amended July 21, 2000).

! Defendants: Toysmart.com, LLC, and Toysmart.com, Inc. o(386)

! On July 10, 2000 the FTC file suit alleging that Toysmart had misrepresented it would "never" disclose, sell, or offer for sale consumers' personal information to third parties. On July 21st, the FTC announced that it would file an amended complaint alleging that Toysmart had also collected names, e-mail addresses, and ages of children under 13 without notifying parents or obtaining parental consent, as required under the Children's Online Privacy Protection Act (COPPA), 15 U.S.C. §§ 6503 and 16 C.F.R. §§§§ 312.3-312.5. The FTC's allegations arose after Toysmart began soliciting bids for its assets, including customer information, through its Web site and major newspapers.

! The FTC settled its charges with Toysmart, proposing a federal district court order that would require Toysmart to delete any information collected in violation of COPPA, prohibit Toysmart from misrepresenting its information collection practices, and bar the company from disclosing customer information, except as allowed by a related Bankruptcy Order. As part of the settlement, a proposed Bankruptcy order would allow the company to sell its customer information to a "Qualified Buyer" that would take over Toysmart's Web site and adhere to Toysmart's privacy policies as its successor-in-interest. Customers would be required to give their affirmative consent ("opt-in") to any new uses for their information.

! On August 17, 2000, the Bankruptcy Court rejected a motion by Toysmart to enter into a settlement with the FTC, stating that the court would impose no pre-set restrictions on the sale of Toysmart's assets since no buyer had come forward. The Court indicated it would hear objections to an asset sale if a new buyer made an offer.

<http://www.ftc.gov/opa/2000/07/toysmart2.htm> (press release -complaint and settlement)

Online pharmacies - false medical and privacy claims

133. FTC v. Sandra L. Rennert, et al., CV-S-00-0861-JBR) (D. Nev. filed July 6, 2000)

! Defendants: Sandra L. Rennert, Philip Rennert, Lyle Mortensen, International Outsourcing Group, Inc., Focus Medical Group, Inc., Trimline, Inc., Affordable Accents, Inc., World Wide RX, Inc., World Wide Medicine, Inc., PSRenn, Inc., and Doctors A.S.A.P., Inc. x(397)

! Operators of a group of Online pharmacies that promoted themselves touting medical and pharmaceutical facilities they didn't actually have and making privacy and confidentiality assurances they didn't keep. The FTC alleged that www.worldwidemedicine.com, www.focusmedical.com and other Web sites claimed they operated a "full-service clinic with a full-

time staff ... [and] a licensed medical physicians network,” when they actually employed only one out-state doctor who was paid \$10 for every Viagra request that he approved. The FTC also alleged that defendants had no “on-site pharmacy” as stated, that they misrepresented the security and encryption used to protect consumers' information, and that they used information in a manner contrary to their stated purpose. Finally, the FTC alleged that defendants sent "spam" to 11,000 customers informing them that their credit cards would be billed \$50 for "Y2K Remediation."

! The settlement with defendants prohibits their deceptive claims; requires disclosures about medical and pharmaceutical relationships; bars the billing of charge cards without consumer authorization; prohibits disclosure of the information collected from consumers without the consumers' authorization; and, requires them to notify consumers of their practices regarding the collection and use of consumers' personal identifying information. The settlement also requires defendants to disclose on any Web site offering prescription drugs, "Dispensing a prescription drug without a valid prescription is a violation of Federal law. More information on purchasing prescription drugs Online is available at www.fda.gov."

<http://www.ftc.gov/opa/2000/07/iog.htm> (press release- complaint & settlement)

Unauthorized credit card charges and deceptive adult verification claims

134. FTC v. Xpics Publishing, Inc. (CD Cal July 2000)

! Defendants: Xpics Publishing, Inc. and Mario G. Carmona and Brian M. Shuster x(402)

! The FTC alleged that Xpics misrepresented that consumers could obtain adult images online for “free” or for a “free” trial period by submitting credit card information for “age verification” purposes. The FTC alleged that Xpics used this credit card information to charge consumers for their purportedly “free” services and then made it difficult for consumers to cancel. The FTC alleged that Xpics even upgraded consumers to more expensive services rather than honor their cancellation requests.

! The FTC obtained a Stipulated Final Judgement and Order from defendants that required them to issue refunds to consumers who respond to host a banner ad on Yahoo at http://dir.yahoo.com/Society_and_Culture/Sexuality/Activities_and_Practices. This banner ad directed consumers

<http://www.ftc.gov/opa/2000/07/xpicspublishing.htm> (press release- complaint & settlement)

Project TooLate.com -Mail Order Rule violations by e-tailers

135. U.S. v. CDnow, Inc., and CDnow Online, Inc. (E.D. Penn.) (August 2000)

136. U.S. v. Southdale Kay-Bee Toy, Inc., (D. Minn.) (August 2000)

137. U.S. v. Federated Department Stores, Inc., (D. Del.) (August 2000)

138. U.S. v. Franklin W. Bishop, (N.D. Cal.) (August 2000)

139. U.S. v. The Original Honey Baked Ham Company of Georgia, Inc. (N.D. Ga.) (August 2000)

140. U.S. v. Patriot Computer Corporation (N.D. Tex.) (August 2000)

141. U.S. v. Toysrus.com, LLC, (D.N.J.) (August 2000)

! Defendants: CDnow, Inc., CDnow Online, Inc.; Southdale Kay-Bee Toy, Inc., KBkids.com LLC, Federated Department Stores, Inc., Macys.com, Inc. ; Franklin W. Bishop d/b/a Minidiscnow.com; The Original Honey Baked Ham Company of Georgia, Inc.; Patriot Computer Corporation; Toysrus.com, LLC, and Toysrus.com, Inc. x(413)

! The FTC alleged that seven large Internet e-tailers failed to comply with the Mail Order Rule during the 1999 holiday shopping season. The FTC alleged that all seven companies failed to offer buyers a timely option either to consent to a delay in shipping or to cancel their orders and grant prompt refunds. The FTC alleged that six companies (all but CDnow) sent no notices as required by the Rule and failed to deem certain orders canceled. Four defendants (KBkids.com, Macys.com, Toysrus.com, and Minidiscnow.com) were charged with taking orders without a reasonable basis for their shipping representations.

! The FTC obtained consent decrees with all seven companies and civil penalties totaling \$1.5 million. Macys.com was required to fund an Internet consumer education campaign about the Mail Order Rule. The penalty amounts against KBkids.com, Toysrus.com, and The Original Honey Baked Ham Co. took into account money the companies spent in mitigating consumer injury. CDnow's \$300,000 penalty was waived except for \$100,000 due to its poor financial condition. Minidiscnow.com, was required to reimburse each consumer who had ordered, but not received, any of the company's products. The consent decrees contained injunctive provisions prohibiting future Rule violations and required compliance reports within 120 days of the decrees demonstrating procedures to comply with the Rule.

<http://www.ftc.gov/opa/2000/07/toolate.htm> (press release- complaint & settlement)

A deceptive franchise opportunity

142. FTC v. The Car Wash Guys International, Inc., et al. Civil Action No. 00-8197 abc (RNBx) (C.D. Cal. filed July 31, 2000).

! Defendants: The Car Wash Guys Intl., Inc., Wash Guy.com, Inc., Lance Winslow, III, Michelle Portney, A/k/a Michelle Winslow x(415)

! The FTC alleged that defendants misrepresented their mobile car wash franchise opportunities to consumers through *www.carwashguys.com* and *www.washguy.com*, promotional videos, CDs, and in-person and telephonic sales presentations. The FTC alleged that defendants misrepresented that their franchises were “turn-key” operations and that consumers could reasonably expect to earn profits of \$4000 to \$10,000 per month per unit. The FTC also charged defendants with violating the Franchise Rule by making earnings claims without handing out a required earnings claim document and by contradicting their own disclaimers.

! The FTC filed suit on July 31, 2000 under seal, and the Court granted the FTC's *ex parte* motion for a temporary restraining order and an asset freeze. In August, the parties entered into a Stipulated Preliminary Injunction that prohibited further misrepresentations and violations of the Franchise Rule and maintained a freeze on most of defendants assets.

! The stipulated final order for permanent injunction, which was approved by the court on February 28, 2001, prohibits the defendants from making the types of misrepresentations alleged in the complaint and from misrepresenting the size of their business operation or the number or identities

of their purchasers. The settlement also prohibits the defendants from making any representation concerning any franchise or business venture unless they have a reasonable basis for making such representation and possess written substantiation. In addition, the defendants are prohibited from violating the Franchise Rule in the future. The settlement further prohibits the defendants from taking any legal actions to enforce franchise agreements executed before the start of the Commission's enforcement action and from collecting on promissory notes signed by franchisees.

! The settlement contains a "right to reopen" provision that would trigger a monetary judgment of at least \$320,000 if the FTC finds that the defendants misrepresented their financial condition. Finally, the settlement contains various recordkeeping provisions to assist the FTC in monitoring the defendants' compliance.

! The Commission vote to authorize staff to file a stipulated final order for permanent injunction was 5-0. The settlement was filed in the U.S. District Court, Central District of California, Western Division, in Los Angeles, on February 26, 2001.

<http://www.ftc.gov/opa/2000/08/car-wash.htm> (press release - complaint & TRO)

<http://www.ftc.gov/opa/2001/03/carwash2.htm> (press release - stipulated final order)

Deceptive health claims for joint pain and ADHD

143. In the Matter of SmartScience Laboratories, Inc. File No. 992 3274 (August 2000)

! Respondents: SmartScience Laboratories, Inc. and Gene C. Weitz. x(417)

! The FTC alleged that SmartScience Laboratories and Weitz made unsubstantiated claims, through major newspapers and magazines and their Web site at www.jointflex.com, that their JointFlex product provided more pain relief than other over-the-counter pain creams; that its glucosamine and chondroitin sulfate contributed to pain relief when applied topically; and that testimonials from consumers appearing in their ads represented the typical or ordinary experiences of consumers who use the product. The FTC also alleged that respondents' ads falsely portrayed the results of a consumer study and the experiences of two consumers who provided testimonials.

! The FTC obtained a consent agreement that prohibits SmartScience and Weitz from making unsubstantiated claims about the efficacy of JointFlex or any drug or dietary supplement in reducing, relieving or eliminating pain, or about the health benefits, performance, safety or efficacy of a product. The settlement also bars misrepresentations about test results, studies, surveys and research with respect to any product and requires that testimonials be truthful and not deceptive.

<http://www.ftc.gov/opa/2000/08/smartsience.htm> (press release - complaint and consent)

<http://www.ftc.gov/opa/2000/11/fyi0057.htm> (press release finalizing settlement)

144. In the Matter of Natural Organics, Inc., Docket No. 9294 (August 2000)

! Respondents: Natural Organics, Inc. and Gerald A. Kessler. x(419)

! The FTC alleged that Natural Organics, Inc., doing business as "Nature's Plus," advertised through print ads, a brochure, an informational letter, and its Web site and made unsubstantiated claims that its product Pedi-Active A.D.D. would treat or mitigate Attention Deficit Hyperactivity Disorder (ADHD) or its symptoms, including inattention and poor scholastic performance.

! In a consent reached with respondents, the notice order prohibits Natural Organics from claiming

that any food, drug or dietary supplement will improve the attention span of children; will improve the scholastic performance of children; or can treat or mitigate ADHD or its symptoms, unless the claims are substantiated by competent and reliable scientific evidence. The order also would prohibit Natural Organics from using the name "A.D.D." or any other name that represents that the product can treat or mitigate ADHD, in connection with the sale of Pedi-Active A.D.D. or any other substantially similar product, unless Natural Organics could substantiate its claims. In addition, the notice order would prohibit respondents from making any unsubstantiated claims about the health benefits, performance, or efficacy of any food, drug or dietary supplement. The order would allow respondents to make representations specifically permitted by the FDA.

! Following a public comment period, the Commission has made final the consent agreement. The Commission vote to approve the agreement as final was 5-0. (FTC File No. 972-3175, Docket No. 09294)

<http://www.ftc.gov/opa/2000/08/natorganics.htm> (press release - complaint and consent)

<http://www.ftc.gov/opa/2001/09/fyi0147.htm> (press release – decision and order)

Operation Travel Unravel case

145. FTC v. Epic Resorts, LLC (M.D. Fla. filed Aug. 14, 2000)

! Defendants: Epic Resorts, LLC, Epic Travel, LLC, Thomas Flatley, and Scott Egelkamp. x(423)

! The FTC filed suit in federal court on Aug. 14, 2000, charging that Epic sent consumers unsolicited e-mails and faxes and invited them to call defendants' telemarketers about Florida and Bahamas vacation packages. That FTC alleged that, through these solicitations and outbound telemarketing calls, defendants violated the FTC Act and the Telemarketing Sales Rule (TSR) by misrepresenting that consumers had won or been specially selected to receive a vacation package and by deceiving consumers about the total cost and the material restrictions and conditions related to defendants' vacation packages. The FTC also alleged that defendants violated the TSR when they called back consumers who said they wanted no more phone calls.

! Under the terms of the proposed order announced on September 5, 2001, ***which will become effective when signed by the district court judge***, Epic Resorts, Epic Travel, and Flatley are required to provide redress to consumers who returned their vacation packages within the defendants' 30-day cancellation period and sought, but did not receive, refunds from the company. The defendants also are enjoined from the illegal activities alleged in the complaint, including: 1) misrepresenting that consumers have won or have been specially selected to receive a package; 2) failing to disclose all material conditions associated with a package; or misrepresenting the total cost of the package; 3) violating the TSR and its "Do Not Call" provision; and 4) failing to provide credit card refunds within seven business days of receiving a returned package (as required by TILA).

<http://www.ftc.gov/opa/2000/08/travelunravel.htm>(press release-complaint)

<http://www.ftc.gov/opa/2001/09/epic.htm> (press release – stipulated final order)

Playgirl and High Society adult credit card scheme

146. FTC and State of New York v. The Crescent Publishing Group, Inc., et al. Civil Action No. 00CV6315 (S.D.N.Y. filed Aug. 23, 2000)

! Defendants: Crescent Publishing Group, Inc., Arachne, Inc., Back Break, Inc., Base Stealer, Inc., Bird N Bee, Inc., Bird of Paradise, Inc., Black Crow, Inc., Blast High, Inc., By Coastal, Inc., Casey Baby, Inc., Cheri, Inc., Crack Back, Inc., Daedalus, Inc., Daphne, Inc., Doric, Inc., Frau, Inc., Gold Finch, Inc., Green Parrot, Inc., Grey Dove, Inc., Grisette, Inc., Hades, Inc., Hoot Owl, Inc. Icse, Inc., Kick Over, Inc., Kick Turn, Inc., Kishkus, Inc., Klept, Inc., Knock Knee, Inc., Lackadaisical, Inc., Left Fielder, Inc., Lemon Zing, Inc., Lsthya, Inc., Marius, Inc., Maxmann, Inc., Menelaus, Inc., Muck-A-Muck, Inc., Multiline Media, Inc., Multimedia Forum, Inc., Multiple Factor, Inc., Nerve Wracking, Inc., NetTV, Inc., Off Year, Inc., Online Forum, Inc., Palantine, Inc., Persephone, Inc., PGTV 1, Inc., PGTV 2, Inc., Phocas, Inc., Pink Flamingo, Inc., Pliny, Inc., Right Fielder, Inc., Romulus, Inc., Scarecrow, Inc., Senora, Inc., Sisyphus, Inc., Speckled Sparrow, Inc., Split Back, Inc., Spruce, Inc., Stray Back, Inc., Trajan, Inc., TXA, Inc., Vespasian, Inc., Vestals, Inc., Wacky Back, Inc., White Cedar, Inc., and Bruce Chew and David Bernstein o(490)

! The FTC and the New York Attorney General's office brought a joint action in federal court against New York City-based Crescent Publishing Group, Inc., its owner, Bruce Chew, principal David Bernstein, and 64 affiliated corporations that operated adult entertainment Web sites such as www.highsociety.com and www.playgirl.com. The FTC alleged that defendants promoted scores of adult entertainment Web sites as "free" and purportedly required credit card numbers from consumers only to prove that they were adults. In fact, according to the FTC, thousands of consumers were charged recurring monthly membership fees ranging from \$20 to \$90, and consumers who tried to dispute the charges were met with a variety of barriers. The FTC alleged that defendants generated \$141 million of revenue in the first 10 months of 1999 alone and routinely changed corporate billing names to avoid detection. When Visa U.S.A. disqualified them from using its credit card system, defendants allegedly moved their merchant banking accounts to Guatemala and adopted several new merchant names.

! A preliminary injunction issued in the matter of Federal Trade Commission and the People of the State of New York v. **The Crescent Publishing Group, Inc., et al.**, by U.S. District Court Judge Lewis A. Kaplan bars the defendants from conducting business on the Internet without first obtaining a \$10 million bond that could be used "to satisfy any judgment entered against the defendants" following trial. The injunction also prevents the defendants from transferring assets to shareholders, officers and directors of their companies; requires repatriation of offshore funds; and requires clear and conspicuous disclosure of any charges for Web-based services.

<http://www.ftc.gov/opa/2000/08/crescent.htm> (press release -complaint)

<http://www.ftc.gov/opa/2001/03/fyi0112.htm>

Enforma spokesmen and infomercial producers

147. FTC v. Steven Patrick Garvey, et al. Civil Action No. 00-09358-AHM (AIJx) (C.D. Cal. filed Aug. 31, 2000).

! Defendants: Steven Patrick Garvey a/k/a Steve Garvey, Garvey Management Group, Inc., Lark Kendall a/k/a Kendall Carson, Mark Levine, David Richmond, and Modern Interactive Technology, Inc. o(496)

! In a companion case to an earlier suit and settlement involving "The Enforma System" weight-loss program, the FTC charged two Enforma spokesmen, an infomercial company, and its two principles with playing an active role in developing deceptive advertising claims. The FTC alleged that baseball star Steve Garvey and "nutritionist" Kendall appeared on Enforma's Web site, on its packaging, and in the two infomercials that were broadcast more than 30,000 times. The

Commission alleged that the infomercial defendants and these spokesmen developed and contributed to numerous deceptive claims about the efficacy of Enforma's "Fat Zapper" and "Exercise in a Bottle."

<http://www.ftc.gov/opa/2000/09/garveyrelease.htm> (press release-complaint)

Another distributor of defective HIV test kits

148. FTC v. Sovo Tec Diagnostics, Inc. et al, (N.D. Cal.) (September 2000)

! Defendants: Sovo Tec Diagnostics, Inc.; Amhad Shirzadi; and Deborah Colby (499)

! The Commission brought suit against the apparent distributor of faulty HIV test kits sold by Cyberlinx, a defendant in an earlier FTC suit. According to an FDA warning letter, Cyberlinx's test were labeled, "HIV ½ STAT-PAK Ultra Fast manufactured for Sovo Tec Diagnostics, Inc." The FTC charged Sovo Tec Diagnostics, Inc. ("Sovo Tec"), its President, Amhad Shirzadi, and Sovo Tec's General Manager, Deborah Colby, with distributing rapid HIV tests under the names, "HIV ½ STAT-PAK Ultra Fast" and "HIV ½ Whole Blood" and deceptively claiming that these tests accurately detected HIV infection in human blood. According to the FTC, in some instances defendants' HIV tests did not accurately detect the presence of HIV antibodies.

! The FTC obtained a stipulated final order from the defendants that prohibits them from making false or misleading representations in connection with the advertising or sale of any HIV test, or any other medical device not approved by the U.S. FDA. The order also requires the defendants to (1) inform all past purchasers of the FTC settlement; (2) notify the Commission of any complaints or refund requests in the future; and (3) permit the Commission, for a period of five years, to randomly select and test any HIV test or other unapproved device for accuracy.

! In approving this settlement, Commissioners Swindle and Leary issued separate concurring statements, noting with concern that Sovo Tec's rapid HIV tests could be exported even though they were not approved for sale in the U.S. Both called for closer scrutiny of this problem by Congress.

<http://www.ftc.gov/opa/2000/09/sovotec.htm> (press release - complaint and settlement)

Work at home wholesale purchasing business

149. United States of America v. Visions Group of America, et al, (WDNY filed October 18, 2000)

! Defendants: Visions Group of America, Inc., SOHO Technologies, Inc., and their principals, Mark Colosi, Rex Judd and Greg Kazimer o(504)

! The FTC alleged that defendants used high-pressure sales tactics to sell various home-based business opportunities based on false and unsubstantiated earnings claims and that defendants violated the FTC's Cooling-Off Rule, which gives consumers three days to cancel certain purchases of \$25 or more. The defendants sold various business opportunities including: "Inside Trader," a business that allegedly allowed purchasers to buy brand name merchandise at or below wholesale cost; "Net More Worth" and "Vision Net," businesses that allegedly allowed purchasers to sell classified ads on the Internet for a profit.

! The Commission vote to forward the complaint and consent order to the Department of Justice for filing was 4 to 1. They were filed by DOJ at the request of the FTC, in the U.S. District Court for the Western District of New York, on October 18.

! The settlement, which is subject to court approval, would prohibit the defendants from making

deceptive income, profit, or sales volume claims in connection with the sale of any franchise, business opportunity, or investment. Also, it prohibits the defendants from violating the Cooling-Off Rule, which includes providing various cancellation notices to prospective purchasers, and would require them to pay a \$22,000 civil penalty.

<http://www.ftc.gov/opa/2000/10/visions.htm> (press release - complaint and consent order)

Advertising of Internet Access Services

150. In the Matter of WebTV Networks, Inc. (October 25, 2000)

! Respondent: WebTV Networks, Inc.

x(505)

! The FTC alleged that WNI, a subsidiary of Microsoft Corp. based in Mountain View, California, advertised its WebTV system in a manner that was deceptive, in violation of federal law. According to the FTC's complaint, advertisements for the WebTV system claimed that it provided access to all of the Internet's entertainment and information and that it was equivalent to a computer with respect to its ability to access Internet content. The company also advertised that it would provide upgrades to the WebTV system to keep users current with the latest Internet technology.

! The FTC complaint alleges that these advertising claims are deceptive because WebTV system users are unable to access all of the content on the Internet, including files created using popular data formats or programming languages, such as certain "streaming video" formats, and games or chat rooms created in the "Java" programming language. In certain cases, they also may not be able to display Web pages, open e-mail attachments, or play music files online. The FTC further alleges that WNI's upgrades to the WebTV system have not kept users current with the latest Internet technology, by failing to provide certain commonly used Internet technologies for audio, video, interactivity and multimedia. The FTC complaint also alleges that ads for the WebTV system deceived consumers by failing adequately disclose that a significant percentage of consumers would incur long distance telephone charges while they were connected to the Internet when using the WebTV system.

! The settlement will bar misrepresentations about the performance capability of Internet access devices and Internet services. Future claims about the cost of any Internet access product or service must be accompanied by a clear and conspicuous disclosure about possible long distance telephone toll charges. Similar disclosures must also be included on the log-on screen that appears before the product connects to a long distance number, as well as in materials provided to new subscribers. Certain consumers will be reimbursed by the company for the long distance charges they incurred. WNI will also initiate a two-part consumer education campaign that will include advertisements in various magazines and a consumer brochure that will be made available at retail locations that sell WebTV and on WNI's own Web site. The settlement also includes record keeping provisions to allow the agency to monitor compliance.

! Following a public comment period, the Commission has made final a consent agreement with the following: **WebTV Networks, Inc.** The Commission vote to finalize the consent order was 5-0.

<http://www.ftc.gov/opa/2000/10/webtv.htm> (press release - complaint, and consent)

<http://www.ftc.gov/opa/2000/12/fyi0063.htm> (press release)

FTC CASES FROM THE TOP-TEN.CON SWEEP Consumer Protection Cops From 9 Countries, 5 U.S. Agencies, And 23 States Tackle Internet Fraud . . .

Videotext scheme - a new twist on modem hijacking

151. FTC v. Verity International, Ltd., No. 00 Civ 7422 (LAK)(S.D.N.Y. filed October 2, 2000)

! Defendants: Verity International, Ltd., Integretel, Inc., Ebillit, Inc., Robert Green and Marilyn Shein o(510)

! In a twist on a scheme first attacked by the FTC in the “Moldova modem hijacking cases,” defendants allegedly used modem dialer programs to charge consumers for Internet “videotext” services and expensive international telephone calls without verifying that the user was the line subscriber or authorized by the line subscriber to incur such charges. Once the dialer software was downloaded, it disconnected a consumer's computer modem from his usual Internet service provider, dialed an international phone number assigned to Madagascar and reconnected the consumer's modem to the Internet from an overseas location. Line subscribers -- the consumers responsible to pay for normal telephone calls -- then incurred charges of \$3.99 per minute.

! The FTC alleged that defendants violated the FTC Act by 1) misrepresenting that line subscribers legally had to pay for calls that they did not authorize, 2) billing and attempting to collect money from line subscribers who never used or authorized use of their telephone lines to access defendants’ videotext services, and 3) “short-stopping” calls and charging consumers \$3.99/minute for calls to Madagascar when consumers’ modem connections actually stopped in London - a \$.08/minute call from the U.S.

! In all, the FTC received nearly 600 consumer complaints about VIL in just a matter of days, beginning September 18, 2000, resulting in the staff's investigation. Through the complaint announced today, the Commission is seeking injunctive and other ancillary relief, including consumer redress, disgorgement and restitution to prevent and remedy the violations alleged. This may include refunding money that consumers paid to the company and its principals and disgorgement of ill-gotten gains, along with any additional relief a court deems proper.

! The FTC filed suit on October 2, 2000 under seal, and the Court granted the FTC’s *ex parte* motion for a temporary restraining order, an asset freeze and repatriation of foreign assets. The FTC has asked the court to issue a permanent injunction, and to order the defendants to pay redress to consumers. A hearing on the FTC's request for a preliminary injunction was held on November 9, 2000.

! On December 14, 2000, the Court filed a memorandum opinion (2000 U.S. Dist. LEXIS 17946) finding that the FTC is likely to prevail on the merits in that: (1) defendants' bills are representations that the stated amounts are due; (2) telephone line subscribers are not obligated to pay for information services such as those sold by defendants, even if the services were accessed over their telephone lines, if they neither accessed nor approved access to such services; (3) the benefits of permitting defendants to bill solely on the basis of ANI identification are outweighed by the consumer injury of defendants' “capitalizing on the inattention and fear of consumers or on the disparity of power between them and the persons they bill to extract payments which, in many cases, probably are not rightfully theirs.”

! The Commission authorized staff to file with the court to amend a previously issued complaint regarding the following: **Verity International Ltd., et al.** The FTC brought this complaint contending that Verity International was involved in illegally billing consumers in connection with the provision of adult "videotext" services. The amended complaint clarifies that it covers unfair and deceptive practices engaged in by the defendants prior to the direct billing that was the focus of the original complaint; adds Automatic Communications Limited, a Bahamian corporation, as a

defendant; and charges that the defendants deceptively failed to disclose the cost of their "adult" entertainment services before providing access to, and billing for, such services. The Commission vote to approve the amended the complaint was 5-0. The court approved the amended complaint on February 27, 2001.

<http://www.ftc.gov/opa/2000/10/verity.htm> (press release - complaint)

<http://www.ftc.gov/opa/2001/03/fyi0112.htm>

More Modem Hijacking Cases

152. *FTC v. RJB Telcom, Inc.; Robert J. Botto, Jr.; Suzette Botto (Relief Defendant); Richard D. Botto; and Anne Botto (Relief Defendant)* (CIV No. 002017 PHX EHC; filed October 26, 2000 U.S. District Court, District of Arizona, Phoenix Division)

! Defendants: RJB Telcom, Inc., Robert Botto, Jr., Richard Botto x(513)

! The FTC alleged that defendants placed unauthorized charges on consumers credit and debit cards, and telephone bills for purported access to defendants' adult-oriented web sites. The FTC alleged that many consumers had never heard of defendants, did not own computers, or did not have access to the Internet. Moreover, the FTC alleged that consumers billed on their telephone bills were charged even when they were not the person that had accessed defendants' web sites.

! The FTC complaint charged defendants with unfair and deceptive practices for placing unauthorized charges on consumers' debit and credit cards for adult Internet entertainment services that they had never ordered. The complaint also alleged that by placing charges on consumers' telephone or billing statements, defendants misrepresented that consumers were legally obligated to pay charges for access to defendants' sexually-explicit web sites even though consumers did not authorize the charges. The complaint also alleged that the practices were "unfair" because defendants made no attempt to ascertain whether the person ordering their adult entertainment services was in fact the line subscriber who would then be billed for them.

! The FTC filed suit on October 26, 2000 under seal, and the Court granted the FTC's ex parte motion for a temporary restraining order, an asset freeze, and the appointment of a receiver. On December 1, 2000 the Court issued a stipulated preliminary injunction agreed to by the parties.

! The settlement announced on September 26, 2001 bars the deceptive billing practices in the future, and requires e-mail confirmation of membership requests and prompt refunds of improperly billed charges. It requires implementation of rigorous fraud detection and prevention mechanisms and requires establishment of a \$250,000 escrow fund, which will be forfeited if the defendants violate the terms of the settlement.

! The Commission vote to approve the settlement was 5-0.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release, complaint, memorandum, and TRO)

<http://www.ftc.gov/opa/2001/09/rjb1.htm> (press release)

153. *FTC v. Ty Anderson; 583 665 B.C. Ltd.; Virtualynx Internet, Inc.; and Charlo Barbosa* (W.D. Wa., filed October 27, 2000).

! Defendants: Ty Anderson; 583 665 B.C. Ltd.; Virtualynx Internet, Inc.; & Charlo Barbosa x(517)

! The defendants operated several web sites that offered access to pornographic videotext services through a "dialer" software. This software caused a computer to disconnect from its usual Internet Service Provider and access defendants' videotext services via an international telephone call to Madagascar from its computer modem. The cost of the call, which varied from \$3.99 to \$7.39, was billed to the subscriber of the modem telephone line.

! The complaint alleged that defendants violated sec. 5 of the FTC Act by: (1) unfairly billing and attempting to collect from telephone line subscribers who had not authorized calls to access defendants' videotext; and (2) deceptively representing to line subscribers that, because their telephone lines may have been used to access defendants' videotext, they were obligated to pay for such access whether or not they had authorized it. The FTC sought preliminary injunctive and ancillary relief, a permanent injunction against violations of the FTC Act, and consumer redress.

! This case is one of four targeting the practice of videotext/modem dialing announced as part of the FTC's "Top Ten Dot Cons" sweep on October 31, 2000. The FTC's Northwest Region filed the lawsuit on October 27, 2000 in the United States District Court for the Western District of Washington. On November 9, 2000, the parties filed a Stipulated Preliminary Injunction ("stipulated injunction"). On the same date, the Court entered an Order on Stipulated Preliminary Injunction adopting most of the stipulated injunction provisions, including those preliminarily enjoining defendants from violating sec. 5 through use of the dialer software.

! The Stipulated Final Judgment and Order announced on August 29, 2001 resolves the court action. The settlement bars the defendants from using any dialer program that does not require the telephone line subscriber's express, verifiable authorization for the product or service purchase. It also requires that the defendants pay \$26,686.07 in consumer redress - the full amount they say they realized from the dialer scheme. The settlement covers Charlo Barbosa, B.C. Ltd., and Virtualynx. Complaint allegations against another defendant, Ty Anderson, were dismissed earlier.

! The Commission vote to file the proposed settlement was 5-0. It was filed in U.S. District Court for the Western District of Washington at Seattle, and entered by the Court August 21, 2001.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release, complaint, and memorandum)

<http://www.ftc.gov/opa/2001/03/fyi0113.htm>

<http://www.ftc.gov/opa/2001/08/pornpics.htm> (press release, complaint, stipulated order)

Work at home Paralegal Training Scheme

154. FTC v. Para-Link International, Inc., et al. (MD FL, Tampa Division, filed October 16, 2000)

! Defendants: Para-Link International, Inc., AAA Family Centers, Inc., The Liberty Group of America, Inc., Deborah R. Dolen, Matthew See, and Judy Graves o(523)

! The FTC alleged that defendants used sites on the World Wide Web, unsolicited e-mail, and newspaper advertisements to promote and sell their paralegal training and employment opportunity kits. Many of the ads and/or e-mails contained representations such as: "Make Over \$200 An Hour," and "You Can Process Simple Divorces and Bankruptcies From Home and Make Over \$200 An Hour in as little as 30 Days!!!". The ads also promised client referrals to purchasers who passed a qualifying test.

! The FTC's complaint charges that the earnings claims were unsubstantiated and that the promised referrals were not supplied. The complaint also charges that the material contained in the kits and the support promised by the defendants is inadequate to properly train consumers to become paralegals. In addition, the complaint charges that the defendants failed to disclose material information to kit purchasers, including the fact that under some circumstances, completing and filing legal forms on behalf of consumers could constitute the unauthorized practice of law under some state laws.

! The FTC filed suit on October 16, 2000 under seal, and the Court granted the FTC's *ex parte* motion for a temporary restraining order, an asset freeze and the appointment of a receiver to take

charge of the companies. The FTC has asked the court to issue a permanent injunction, and to order the defendants to pay redress to consumers. A hearing on the FTC's request for a preliminary injunction has been scheduled for November 9, 2000.

<http://www.ftc.gov/opa/2000/10/paralink.htm> (press release - complaint/TRO)

Medical Billing Home Business Opportunity

155. FTC v. Western United Service Corporation d/b/a Titan Business Solutions and Scott Ford (CD Cal filed October 25, 2000).

! Defendants: Western United Service Corporation d/b/a Titan Business Solutions, Scott Ford o(525)

! The FTC alleged, in its complaint, that defendants, using a website and advertisements in local newspapers, to promote and sell a "complete package" of medical billing software and training to consumers which would enable consumers to establish an electronic medical billing business out of their homes. Defendants allegedly misrepresented that consumers would receive a list of pre-screened doctors waiting to hire consumers, that the package was complete and that other consumers were making substantial sums, from \$5 to \$7 per claim and up to \$40,000 per year, using Defendants' product.

! The FTC suit alleged that in reality there was no list of pre-screened doctors, the package was not complete as promised, and no consumers were making the amounts of money promised by the defendants.

! The FTC filed suit on October 25, 2000 under seal and the Court granted the FTC's *ex parte* motion for a temporary restraining order, an asset freeze and the appointment of a receiver to take charge of the companies. The FTC has asked the court to issue a permanent injunction, and to order the defendants to pay redress to consumers.

! On November 3, 2000, after a 2 ½ hour litigated hearing on the FTC's request for a preliminary injunction, the Court made the receivership over Western United Business Corporation d/b/a Titan Business Solutions permanent and granted the FTC's request for a preliminary injunction.

! On November 21, 2000, an asset deposition was taken of Scott Ford.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release - complaint, proposed TRO, Final *Ex Parte* TRO)

Direct billing and credit card cramming for adult internet services

156. FTC v. Automated Transaction Corp.; WWW Provider Co.; Edward S. Lipton; World Telnet, Inc.; and Donald Tetro (S.D. Fla. filed October 25, 2000) (Case No. 00-7599-CIV-HURLEY/LYNCH).

! Defendants: Automated Transaction Corp., World Telnet, Inc., WWW Provider Co., Edward S. Lipton and Donald Tetro. o(530)

! The FTC alleged that defendants engaged in unfair and deceptive acts and practices by billing consumers for purported adult-content Internet and audiotext services that the consumers never purchased, authorized or received. The complaint alleges that Defendants carried out their scheme in two ways: (1) by sending consumers bills by direct mail and, (2) by posting charges to consumers' credit card and debit accounts. According to the complaint, Defendants' direct mail bills allegedly featured consumers' Social Security numbers as their customer account numbers. Many consumers were so alarmed by defendants' unauthorized use of their Social Security numbers that they filed police reports, characterizing themselves as victims of identity theft.

! The FTC filed suit ex parte on October 25, 2000, seeking a TRO with asset freeze, immediate access and appointment of a temporary receiver over the corporate defendants. The Court issued the TRO on October 26, 2000 and scheduled a Preliminary Injunction hearing for November 2, 2000 before a magistrate judge. A partial hearing was held on Nov. 2 and continued for Nov. 8. On November 8, 2000, prior to the start of the second day of the PI hearing, the parties reached a stipulated preliminary injunction. The stipulated PI imposed restrictions on defendants' future billing, left the receiver in place and provided for the establishment of a \$2 million escrow account to fund consumer injury, the scope of which is still to be determined.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release - complaint, TRO)

Fake Rebate Checks for Internet Service

157. FTC v. Cyberspace.com, LLC; French Dreams; Coto Settlement; Electronic Publishing Ventures, LLC; Olympic Telecommunications, Inc.; Ian Eisenberg; and Chris Hebard (Western District of Washington October 2000).

! Defendants: Cyberspace.com, LLC; French Dreams; Coto Settlement; Electronic Publishing Ventures, LLC; Olympic Telecommunications, Inc.; Ian Eisenberg; and Chris Hebard o(537)

! The Commission filed a complaint against defendants in the Western District of Washington on October 20, 2000. The complaint includes 3 counts alleging Section 5 violations. The complaint alleges that defendants sent a mailing, with checks for \$3.50, to millions of consumers and businesses. FTC alleges that the mailing caused consumers to believe that the check was a rebate, refund, accounts receivable, or some other payment based on a pre-existing relationship, when in fact it was not. The FTC further alleges that by depositing the check, consumers and businesses were agreeing to enter into a new business relationship wherein defendants placed charges for internet access on consumers' and business' telephone bills.

! The FTC settled with 5 defendants and filed two stipulated permanent injunctions at the same time we filed our complaint. The court signed the permanent injunction orders on October 23. One order is against Eisenberg, French Dreams, and Olympic Telcomm. The other is against Hebard and Coto Settlement.

! The two orders called for a Special Master to work with the parties to reach an agreement on the amount and method of distribution for consumer redress. That process is now beginning.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release - complaint, stipulated permanent injunctions)

Internet Auction Scams

158. United States of America v. Computers By Us, Inc., also d/b/a Fenceway Computers and Tweekable Computers; Jeffrey M. Wesko; Wanda M. Wesko; and Richard A. Wesko, Jr. (District of Maryland, Northern Division filed October 30, 2000)

! Defendants: Computers By Us, Inc., Fenceway Computers, Tweekable Computers; Jeffrey M. Wesko, Wanda M. Wesko, and Richard A. Wesko, Jr. x(543)

! The United States alleged that defendants offered computers for sale on any one of a number popular Internet auction web sites ("auction houses"), and accepted payment from consumers who "won" auctions. The United States also alleged that defendants referred their Internet auction consumers to the defendants' own web sites where they advertised computer parts to upgrade the computers offered in their auctions.

! The complaint charges that defendants almost never delivered the merchandise won by

consumers via auction, failed to deliver it in a timely manner and/or delivered merchandise that was substantially less valuable than consumers expectations. The complaint also charges that defendants almost never delivered the merchandise to consumers who chose to upgrade their computers with parts offered on the defendants' web sites before delivery, or delivered merchandise that was substantially less valuable than consumers' expectations.

! The United States filed suit on October 30, 2000, asking the court to issue a permanent injunction and to order defendants to pay redress to consumers.

! The settlement announced on August 30, 2001 will require that each defendant post a \$200,000 performance bond prior to engaging in Internet marketing or assisting others marketing over the Internet in the future. It also bars misrepresentations that they possess the goods or services they are offering for sale and that delivery will be made on receipt of payment. In addition, it bars future violations of the FTC Act and the Mail Order Rule, and prohibits the defendants from selling or sharing their customer lists.

! The Commission vote to approve the settlement was 5-0. It was filed in U. S. District Court for the District of Maryland, Northern Division by the Department of Justice at the request of the FTC. It is subject to court approval.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release - complaint)

<http://www.ftc.gov/opa/2001/08/computerbyus.htm> (press release)

159. FTC v. Michael Dewhurst d/b/a Empire Designs, Case No. 00-CV-12219 RCL (District of Mass, Filed October 26, 2000)

! Defendant: Michael Dewhurst d/b/a Empire Designs o(544)

! The FTC Complaint alleges that Michael Dewhurst d/b/a Empire Designs placed advertisements offering computers and consumer electronics on the web sites of various Internet auction houses. Consumers placed bids for defendant Dewhurst's merchandise and Dewhurst accepted bids and payment for the computer and consumer goods he offered for sale on the Internet. However, Dewhurst failed to provide either the promised merchandise or a refund to those consumers whose bids he has accepted and from whom he received payment.

! The FTC Complaint charges that the defendant 's practices are in violation of Section 5(a) of the FTC Act.

! The Complaint also charges that the defendant is in violation the Mail or Telephone Order Merchandise Rule. Specifically, the defendant solicited orders for the sale of merchandise to be ordered by the buyer without a reasonable basis to expect that he will be able to ship any ordered merchandise to the buyer within the time stated in the solicitation, or if no time was clearly and conspicuously stated, within thirty days of receipt of a properly completed order. In addition, the defendant failed to offer buyers, clearly and conspicuously and without prior demand, an option either to consent to a delay in shipping or to cancel the order and receive a prompt refund. Finally, defendant failed to make a "prompt refund" to buyers when such refunds were required under the Mail or Telephone Order Merchandise Rule.

! The FTC filed a Complaint, a motion for a preliminary injunction and a request for a oral argument on October 26, 2000. The FTC is currently awaiting a hearing date.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release - complaint)

160. FTC v. Auctionsaver, LLC; Richard Phim; Carman Lee Caldwell; Shade Delmer, aka Shane Delmer; and Naomi Ruth Anderson (S.D. Cal., filed October 20, 2000)

Defendants: Auctionsaver, LLC; Richard Phim; Carman Lee Caldwell; Shade Delmer, aka Shane Delmer; and Naomi Ruth Anderson. o(549)

! The Complaint alleges the defendants violated Section 5 by failing to deliver to winning bidders computer-related products that the defendants offered on Internet auction sites, contrary to their representations that they would deliver such products.

! The Complaint also alleges the defendants violated the Mail or Telephone Order Merchandise Rule by--

1. soliciting orders without a reasonable basis to expect they would be able to ship the merchandise in the required time period;
2. failing to offer buyers the option to cancel or to consent to a delay; and
3. failing to make prompt refunds when required.

! No preliminary relief has been sought. FTC staff has served the LLC defendant but is still locating the individual defendants.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release - complaint)

Commodity Trading Scam

161. In the Matter of WFS Enterprises, Inc. d/b/a The Cash Nursery, and Rabb Sabin and Arthur Smith (File No. 002 3025) (October 2000)

! Respondents: WFS Enterprises, Inc.d/b/a The Cash Nursery, Rabb Sabin & Arthur Smith x(552)

! The Federal Trade Commission has accepted an agreement containing a consent order from defendants, who sell a training program on the Internet for the daily buying and selling of stock and commodity options (also known as "day trading"). They advertise on their Internet Web site, www.thecashnursery.com. This matter concerns allegedly deceptive representations of the earnings and profit potential, as well as the extent of risk involved in using respondents' trading methods.

! The Commission's complaint alleged that respondents made unsubstantiated claims that users of respondents' options trading program could reasonably expect to earn large profits, as much as seven figures annually (i.e., more than \$1,000,000); that users could reasonably expect consistent investment returns of 100% to 500% on their trades; and that testimonials appearing in the advertisements for respondents' options trading program reflected the typical or ordinary experience of members of the public who use the program. In addition, the complaint alleged that respondents misrepresented that users of their options trading program could reasonably expect to trade with little financial risk.

! The consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future. The order requires respondents to have a reasonable basis substantiating any representation that users of respondents' currency trading program can reasonably expect to earn large profits. The order also prohibits respondents from misrepresenting that users of any trading program can reasonably expect to trade with little or no financial risk and from misrepresenting the extent of risk to which users of any such program are exposed. The order also requires respondents to disclose, clearly and conspicuously, "Stock, commodity futures, and stock or commodity options trading involve HIGH RISKS and YOU can LOSE a lot of money." in close proximity to any representation they make about the financial benefits of any trading program. This disclosure is in addition to, and not instead of, any other disclosure that respondents may be required to make. The order also prohibits respondents from using testimonials or endorsements in a manner that is deceptive or misleading.

! The agreement will be subject to public comment for 30 days, after which the Commission will decide whether to make it final.

The agreement was subject to public comment for 30 days and was finalized on January 19, 2001.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release - complaint, agreement, analysis)

<http://www.ftc.gov/opa/2001/01/fyi0103.htm> (press release - complaint, decision and order)

Day Trading Scam

162. In the Matter of R.S. of Houston Workshop, Ronald J. Schoemmell, and Valdimar Thorkelsson (File No. 002 3024) (October 2000)

! Respondents: R.S. of Houston Workshop, Ronald J. Schoemmell & Valdimar Thorkelsson.x(555)

! The Federal Trade Commission has accepted an agreement containing a consent order from defendants, who well a training program for a trading method on the Internet for the daily buying and selling of stocks (also known as "day trading"). They advertise on their Internet Web site, www.rsfofhouston.com. This matter concerns allegedly deceptive representations of the earnings and profit potential, as well as the extent of risk involved in using respondents' trading programs and trading methods.

! The Commission's complaint alleged that respondents made unsubstantiated claims that users of respondents' trading programs and trading methods could reasonably expect to earn large profits, as much as six figures annually (i.e., more than \$182,000); that users of respondents' trading programs and trading methods could reasonably expect consistent investment returns of \$2,500 to \$3,500 per week; that users of respondents' trading programs and trading methods could reasonably expect to succeed at day trading for a lifetime of profitable and enjoyable trading; and that testimonials appearing in the advertisements for respondents' trading programs and trading methods reflected the typical or ordinary experience of members of the public who use the program. In addition, the complaint alleged that respondents misrepresented that users of respondents' trading programs and trading methods could trade in volatile markets with LOW RISK.

! The consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future. The order requires respondents to have a reasonable basis substantiating any representation that users of respondents' day trading program can reasonably expect to earn large profits. The order also prohibits respondents from misrepresenting that users of any trading program can reasonably expect to trade with little or no financial risk and from misrepresenting the extent of risk to which users of any such program are exposed. The order also requires respondents to disclose, clearly and conspicuously, "DAYTRADING involves HIGH RISKS and YOU can LOSE a lot of money." in close proximity to any representation they make about the financial benefits of any trading program. This disclosure is in addition to, and not instead of, any other disclosure that respondents may be required to make. The order also prohibits respondents from using testimonials or endorsements in a manner that is deceptive or misleading.

! The agreement was subject to public comment for 30 days and was finalized on January 19, 2001.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release - complaint, agreement, analysis)

<http://www.ftc.gov/opa/2001/01/fyi0103.htm> (press release - complaint, decision and order)

Online "Yellow Page" Listings Billed to Telephone Bills

163. FTC v. YP.Net, Inc.; Telco Billing, Inc., d/b/a Yellow-Page.Net; Publication

Management, Inc.; Michael K. Bloomquist; Joseph T. Carlson; William D. O'Neal; Gregory B. Crane; and Rebecca L. Bloomquist, Karina Carlson, Elizabeth O'Neal, and Laura Crane (Relief Defendants) (CV- No. 00-1210 PHX SMM; filed June 26, 2000 - D Ariz, Phoenix Div).

! Defendants: YP.Net, Telco Billing, Inc., d/b/a Yellow-Page.Net, Publication Management, Inc., Gregory Crane, William O'Neal, Michael Bloomquist, and Joseph Carlson o(562)

! The FTC alleged that defendants solicited customers for their online yellow pages directory by mailing consumers a \$3.50 "rebate" check with the familiar walking fingers logo and "yellow-Page" name. The back of the check had a purported advertising contract in small print above the endorsement line. Most of the material terms of the purported contract were printed on the inside of the solicitation envelope and could only be read by ripping apart the envelope. By depositing the "rebate" check, consumers were unwittingly signed up for a year of defendants' Internet yellow page services charged to their telephone bills.

! The FTC's complaint charges that defendants made deceptive representations by failing to disclose to consumers, in a clear and conspicuous manner, the material conditions associated with depositing defendants' \$3.50 rebate check. The complaint also alleges that defendants misrepresented that they were affiliated with, or endorsed by, consumers' regular provider of yellow page directories. In addition, the complaint alleges that defendants misrepresent that consumers are legally obligated to pay charges for defendants' Internet-related services, even though the charges were not authorized.

! The FTC filed suit on June 26, 2000 under seal and the Court granted the FTC's *ex parte* motion for a temporary restraining order, an asset freeze, and the appointment of a receiver. On July 13, 2000 the Court signed a stipulated preliminary injunction order agreed to by the FTC and defendants. The order required defendants to refrain from certain conduct in their marketing and business practices, and required a bond to be posted by defendant Greg Crane for potential consumer redress.

! The settlements announced on June 22, 2001, ended the court action. The settlements will bar misrepresentations that consumers can obtain rebates without incurring any obligation and that defendants have an ongoing business relationship with consumers. The settlements also will bar the defendants from using the term "rebate" on solicitation checks. YP.Net, TBI, PMI, Gregory Crane and William O'Neal also are required by their settlements to clearly and conspicuously disclose the obligations consumers will incur in cashing solicitation checks and will be required to send notices to consumers to confirm service and billing agreements and to give them the opportunity to cancel. In addition, they are required to give consumers who signed-up for their services between April 1, 2000 and July 14, 2000 the option of a two month refund. All the settlements contain record keeping provisions to allow the agency to monitor compliance.

! In the course of preparing for trial, the FTC identified a related company, Simple.Net, engaged in a similar marketing scheme. The company marketed Internet access services using "rebate" checks. A stipulated final judgment and order for permanent injunction filed with the court would bar their misrepresentations of rebates and require them to send customers who signed up for their service confirmation notices giving the consumers the opportunity to cancel and receive a refund. The companies covered by the order with Simple.Net include Simple Access, Inc., Dial Up Services, Inc., and ISP Marketing, Inc.

! The Commission votes to accept the settlements were 5-0.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release and complaint)

<http://www.ftc.gov/opa/2001/06/ypnet.htm> (press release and

More Cramming of Internet Service Charges on Telephone Bills.

164. FTC v. Mercury Marketing of Delaware, et al. (E.D. Pa., filed June 28, 2000)

! Defendants: Mercury Marketing of Delaware and Neal D. Saferstein. x(564)

! A complaint for a permanent injunction and equitable redress was filed in the U.S. District Court for the Eastern District of Pennsylvania. Defendants telemarket Internet web page advertisements to small businesses and nonprofit organizations nationwide.

! The Commission's complaint alleges that defendants place unauthorized charges for their Internet-related services on consumers' telephone bills, thereby misrepresenting that consumers are obligated to pay for such services.

! A stipulated final judgment and order has been presented to the court, which will require Mercury Internet Services, and its principal, Neal D. Saferstein, to offer consumers refunds for telephone bill charges they did not authorize. The settlement bars misrepresentations that consumers are obligated to pay for services they did not authorize; that consumers will not be charged before the end of the "free trial" period; and that consumers will not be charged if they cancel during the "free trial" period. It also bars misrepresentations that consumers' Web pages can be located using major Internet search engines. The settlement requires that the defendants obtain express, verifiable agreement to the terms of any sale they make and prohibits them from billing consumers during the "free trial" period. It also requires that they disclose all material terms and conditions in writing before billing consumers.

! The Commission vote to accept the Stipulated Final Judgment and Order was 5-0.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release and complaint)

<http://www.ftc.gov/opa/2001/03/mercury2.htm>

165. AUCTION CASE UNDER SEAL AS OF 10/31/00 o(565)

More Videotext / Modem Hijacking

166. FTC v. Sheinkin (D.C. S.C.) filed 11/17/2000)

! Defendant: FTC v. Hillary Sheinkin, a/k/a Hillary Perse, a/k/a Honey Smith, d/b/a Witchy's Web, Inc., Honeybun, Inc., Free Sugar, Inc. x(566)

! Defendant Sheinkin operates several Web sites that offer "free" adult content by downloading a "free" program. A computer user that clicks on the free program in fact downloads a program that re-dials the computer's modem to an international destination in Guyana or Vanuatu where the computer is re-connected to an adult Web site. The line-subscriber for that modem line is then charged anywhere from \$2.53 to \$5.09 a minute for the duration of the connection. The charges then appear on the line-subscriber's regular phone bill as international telephone calls. Defendant also advertises a turnkey business opportunity for other Web site operators to use her dialer programs.

! The FTC alleged that defendant violated the FTC Act by: 1) unfairly causing line-subscribers that have not used, or authorized others to use, her dialer program; 2) misrepresenting that line subscribers legally had to pay for calls that they did not authorize; 3) deceptively advertising her services as "free"; and, 4) providing others with the means and instrumentalities to commit the

same deceptive practices.

! The FTC, with the assistance of the United States Attorney's office for the District of South Carolina, filed a complaint and motion for a preliminary injunction on November 17, 2000.

! The settlement announced on August 29, 2001 bars the defendant from billing consumers without express, verifiable authorization; selling or providing dialer programs to others; making false or misleading statements in advertising or during the sale of products or services on the Internet; and using aliases when registering Web sites. The settlement also requires that she give up \$10,000 in ill-gotten gains.

! The Commission vote to accept the proposed consent judgment was 5-0. It was filed by the Department of Justice at the request of the FTC and entered by the court August 15.

<http://www.ftc.gov/opa/2001/08/sheinkin.htm> (press release – stipulated final order)

FTC Follows up on "Project Toolate.com" With "Surf" of E-tailers, Educational Campaign On Holiday Shipping Promises - November 17, 2000. The staff of the Federal Trade Commission's Division of Enforcement and the Western and Northwestern Regional Offices announced that they conducted a "surf" of more than 200 Internet retailer sites searching for shipment promises made to entice consumers to their sites this holiday season. The FTC staff found that nearly 100 of these sites made "quick-ship claims." Staff is sending letters to over 100 e-tailers to help them understand their obligations under the Rule, based upon a review of the shipment claims on their Internet Web sites.

Fake I.D. Mill on The Internet

167. FTC v. Jeremy Martinez d/b/a Info World (C.D. Cal. filed December 5, 2000) (Civil Action No. 00-12701-CAS).

! Defendants: Jeremy Martinez d/b/a Info World x(567)

! The FTC complaint alleges that Jeremy Martinez of Tarzana, California, doing business as Info World, maintained Web sites, including one located at a site called "newid" that sold 45 days of access to fake ID templates for \$29.99. The site contained "high quality" templates for the creation of fake California, Georgia, Florida, Maine, Nevada, New Hampshire, New Jersey, Utah, Wisconsin and New York drivers licenses. It also contained a birth certificate template, programs to generate bar codes - required in some states to authenticate drivers licenses - and a program to confirm the validity of Social Security numbers.

! The FTC further alleges that Martinez was deliberately marketing his site to consumers who were surfing the net to find fake ID documents. Web sites use Meta-tags - hidden words that help search engines identify and index Web site content. Martinez's Meta-tags included "illegal id," "fake id fraud," and "forging documents" according to the FTC complaint.

! The FTC's complaint alleges that selling the fake ID templates violates the FTC Act and that by providing false identification templates to others, Martinez has provided the "means and instrumentalities" for others to break the law. The FTC has asked the court to permanently bar the deceptive practices and to recover the illegally earned money from the defendant.

! The complaint was filed in U. S. District Court for the Central District of California in Los Angeles on December 5, under seal. The FTC's Temporary Restraining Order was signed on December 5, which included injunctive relief, an asset freeze and requires the defendant to repatriate any assets or documents located in foreign countries. The seal was lifted December 8.

! A settlement was reached, which bars Martinez from any involvement with the sale of false identification documents, identification templates, or related materials. It also bars him from providing others with the means and instrumentalities to commit deceptive acts, including concealing or altering their identity. In addition, the order requires \$20,000 of ill-gotten gains to be forfeited by Martinez. That amount is based on financial declarations made to the FTC and the court regarding his available assets. Should the court determine those financial declarations were false, that determination would trigger a judgment of \$105,279, representing the revenues he generated from selling the false identification documents. The settlement also contains record keeping provisions to allow the Commission to monitor compliance.

! The Commission vote to accept the settlement was 5-0.

! This case was filed with the invaluable assistance of the Florida Department of Business and Professional Regulation Division of Alcoholic Beverages and Tobacco Fraudulent Identification Program. The program identifies fraudulent Internet identification issues and has closed 33 Internet sites and recorded 310 arrests for possession of false identification.

www.ftc.gov/opa/2000/12/martinez.htm (press release – complaint, amended TRO, statement of Commissioner Swindle)

<http://www.ftc.gov/opa/2001/07/martinez3.htm> (press release)

168. In the Matter of Sharp Electronics Corp. (January 21, 2001)

! Respondent: Sharp Electronics Corp. x(563)

! The Commission alleged that Sharp Electronics Corp. ("Sharp"), one of the world's largest electronics manufacturers and sellers, misled consumers about the upgradability of its Mobilon Handheld Personal Computers ("HPCs"). The complaint contends that Sharp continued to advertise that the devices were upgradeable to a later version of the Microsoft Windows CE operating system for several months after the company had determined it would not make the systems upgradeable. Many HPCs currently on the market use this system, which also contains several applications, including a wordprocessor, spreadsheet and database. The upgradeability claims at issue were primarily made to consumers who were researching the devices on Sharp's Web site.

! Under the settlement, consumers who bought a Mobilon 4100, 4500 or 4600 during part of 1999 and 2000 will have to pay only a \$10 shipping and handling charge to have their systems upgraded. Consumers would either be able to submit an upgrade claim form that they received in the mail from the company, or request the upgrade over the Internet. A message alerting consumers to the upgrade opportunity would be posted on Sharp's Web site. Sharp would also be prohibited from making false upgradability claims in the future.

! The Commission vote to accept the consent agreement for public comment was 5-0.

<http://www.ftc.gov/opa/2001/01/sharp.htm> (press release – complaint, agreement, analysis).

FTC Kicks off "Operation Detect Pretext" Warns Firms to Comply with Federal Laws That Protect Consumers' Personal Information, January 31, 2001.

<http://www.ftc.gov/opa/2001/01/pretexting.htm> (press release)

First "Safe Harbor" Approved for Children's Online Privacy Protection Act.

The Federal Trade Commission today announced that the Children's Advertising Review Unit of the Council of Better Business Bureaus (CARU), the children's arm of the advertising industry's self-regulatory program established in 1974, has been approved as the first "safe harbor" program under the terms of the Children's Online Privacy Protection Act. Safe harbor programs are industry self-regulatory guidelines that, if adhered to, are deemed to comply with the Act. This is the first COPPA safe harbor application approved by the Commission.

<http://www.ftc.gov/opa/2001/02/caruh.htm>

Domain Name Registration Fraud

169. FTC v. Darren J. Morgenstern, 1268957 Ontario, Inc., and 1371772 Ontario Inc., doing business as National Domain Name Registry, Electronic Domain Name Monitoring, and Corporate Domain Name Monitoring. (N.D. GA. filed February 12, 2001) (Civil Action No. 01-CV-0423).

! Defendants: Darren J. Morgenstern, 1268957 Ontario, Inc., and 1371772 Ontario Inc., doing business as National Domain Name Registry, Electronic Domain Name Monitoring, and Corporate Domain Name Monitoring. o(571)

! The Federal Trade Commission has asked a U.S. District Court Judge to halt an Internet domain name scheme that dupes consumers into needlessly registering variations of their existing domain names by deceptively contending that a third party, acting in bad faith, is about to claim it. The agency estimates that, at a minimum, 27,000 consumers may have been victims of the scam. At the agency's request, the court has issued a Temporary Restraining Order, frozen the defendants' assets, and shut down their Web sites, pending trial. The FTC has asked the court to bar the scheme permanently and order consumer redress.

! According to the FTC, consumers - many of them operating small businesses on the 'Net - received unsolicited fax solicitations stating, "URGENT NOTICE OF IDENTICAL DOMAIN NAME APPLICATION BY A THIRD PARTY." The fax solicitation offers to block the application by obtaining the copy-cat domain name for the fax recipient for a fee of \$70. According to the FTC, no third party has applied for the name, and the information in the fax solicitations is false, in violation of the FTC Act.

! The FTC has asked the court to issue preliminary and permanent injunctions to bar the deceptive marketing practices, to freeze the defendants' assets to preserve them for consumer redress, and to shut down Web sites used to promote the domain name scheme.

<http://www.ftc.gov/opa/2001/02/morgenstern.htm> (press release – complaint, TRO)

Medical Billing Scam

170. FTC v. Medicor LLC and Andrew Rubin (C.D. CA filed February 28, 2001)

! Defendants: Medicor LLC, Andrew Rubin, Matthew Rubin, Maven Holdings, Inc.,

and S&M Trust

o(576)

! A federal district court has ordered a temporary halt to a California-based telemarketing scheme that purportedly sold work-at-home medical billing opportunities. Medicor LLC, and its manager, Andrew Rubin, promised consumers that they could earn up to \$1,500 per week using their home computers to process medical bills for physicians in the consumers' community.

! The Federal Trade Commission alleges that the defendants misrepresented their medical billing work-at-home opportunities by touting false earnings claims, misrepresenting the assistance that they would arrange for consumers to get medical billing work and that refunds were readily available. At the Commission's request, the court froze the defendants' assets, and appointed a temporary receiver pending a hearing on the Commission's motion for a preliminary injunction.

! The FTC filed its complaint in the U.S. District Court in the Central District of California against Medicor and Rubin as part of "Project Homework" - a law enforcement action targeting work-at-home scams that typically victimize stay-at-home parents, the physically disabled, non-English speakers, and people who cannot secure employment in traditional venues outside the home.

! The defendants promoted and sold medical billing work-at-home opportunities to consumers throughout the United States via newspaper ads and an Internet web site, www.medicorllc.com. According to the FTC, Medicor, based in Van Nuys, California, advertised in the "help wanted" section of various local newspapers touting the high earnings consumers could make using Medicor's medical billing software. To further induce consumers to purchase Medicor's billing software, the defendants' telemarketers would falsely represent that they would arrange for doctors whose claims the consumers would be processing. In an attempt to convince consumers that Medicor was a legitimate company, the defendants would sometimes refer potential customers to their web site, which offered testimonials from purportedly successful Medicor billers. The defendants charged from \$325 to \$495 for their business opportunity.

! The Commission vote to authorize staff to file the complaint in district court was 4-0-1, with Commissioner Sheila Anthony not participating. The complaint was filed under seal in the U.S. District Court, Central District of California, Western Division, in Los Angeles, on February 28. The judge signed the TRO with Asset Freeze on March 1 and lifted the seal on March 7, 2001.

<http://www.ftc.gov/opa/2001/03/medicor.htm> (press release)

FTC Sues Day Trading Seminar Promoter Over Deceptive Ad Claims

171. FTC v. Tim Cho Investment Corporation and Timothy Cho (C.D. California filed March 15, 2001) (CVSA 01-331)

! Defendants: Tim Cho Investment Corporation and Timothy Cho

o578

! The Federal Trade Commission has filed suit in U.S. District Court to stop Timothy Cho and Tim Cho Investment Corporation (TCI) from making false and deceptive advertising claims for TCI's training seminar on day trading. TCI is located in Irvine, California, and has affiliate offices throughout the country.

! This lawsuit is the seventh in a series of FTC enforcement actions against these deceptive practices, which was announced in May 2000 in conjunction with the Commodity Futures Trading Commission, and Securities and Exchange Commission. This case was brought with the assistance of the Securities Division of the Office of the Secretary of the Commonwealth of Massachusetts.

! According to the complaint, Cho and TCI have used the Internet, newspapers and bulk e-mail to advertise a \$6,000 two-day training seminar on day trading. Through its advertising TCI has claimed, among other things, that investors can expect to have made \$305,000 in 393 winning trades in the first nine months of 2000; to earn a guaranteed 1000 percent return in trading S&P futures contracts within one year; that 12 out of every 13 trades will be profitable. The FTC alleges that the defendants lacked substantiation for these claims, and that they were deceptive.

! The ads also conveyed that investors can expect to trade profitably with little financial risk, the FTC alleged. In fact, the FTC complaint says, investors cannot reasonably expect to trade with little financial risk, and the claim is therefore false.

! The FTC has asked the court to issue a permanent injunction to bar the deceptive marketing practices and for an order providing consumer redress. The relief sought by the FTC includes an order halting the false and unsubstantiated claims and providing for redress to consumers or disgorgement of ill-gotten gains.

! The Commission vote to file the complaint was 5-0. It was filed in the U. S. District Court for the Central District of California, Southern Division, in Santa Ana, March 15.

<http://www.ftc.gov/opa/2001/03/cho.htm> (press release – complaint)

Public Workshop: Emerging Issues for Competition Policy in the World of E-Commerce , March 22, 2001 <http://www.ftc.gov/os/2001/03/ecommmfrn.htm> (news release – link to federal register notice)

Another Internet Pyramid Scheme Dismantled

172. FTC v. Bigsmart.com (D. Ariz., filed March 12, 2001)

! Defendants: Bigsmart.com, Mark Tahiliani and Harry Tahiliani

o581

! The FTC alleged that defendants promoted and operated an Internet-based pyramid scheme in which members purportedly earned commissions by encouraging others to buy goods and services from Bigsmart "shopping malls." According to the complaint, Bigsmart's compensation plan was structured in such a way that financial rewards depended on the continued, successive recruitment of other participants, not retail sales. The FTC's complaint further alleged that defendants represented, expressly and by implication, that many consumers who became Bigsmart members would make substantial amounts of money and that all consumers would make some money.

! The complaint charged that defendants' earnings claims were false and deceptive. The complaint further charged that defendants provided others with the means and instrumentalities to make

similar earnings misrepresentations. In addition, the complaint charged that defendants failed to disclose that numerous consumers who participated in the Bigsmart program did not receive substantial income and that this omission is a deceptive act or practice because this information would be material to consumers in deciding whether to participate in Bigsmart. Finally, the FTC charged that Bigsmart is a pyramid scheme and therefore inherently deceptive.

! In March 2001, Bigsmart.Com L.L.C. and principals, Mark and Harry Tahiliani reached a settlement, which was filed with the complaint. Under the settlement, defendants must provide up to \$5 million in consumer redress and post a \$500,000 performance bond before engaging in any new multi-level marketing activity. The court entered an order approving the settlement on March 21, 2001.

<http://www.ftc.gov/opa/2001/03/bigsmart.htm> (press release, complaint and settlement)

FTC, Department of Commerce Host Public ESIGN Workshop, April 3, 2001.

<http://www.ftc.gov/opa/2001/03/esignadvisory.htm> (press release).

FTC Halts Web Crammer – Web Hosting Service Billed Consumers Thousands In Bogus Bandwidth Charges

173. FTC v. Page Creators d/b/a Page Creators and Trinity Host LLC (D. Minn. filed March 26, 2001) (01-523 ADM/RLE)

! Defendants: Bryan J. Kruchten d/b/a Page Creators d/b/a pagecreators.net and Trinity Host LLC d/b/a trinityhost.com o583

! The Federal Trade Commission has filed suit in U.S. District Court to stop Bryan Kruchten and Trinity Host LLC from, among other things, cramming unauthorized charges onto consumers' credit cards for supposed "excess bandwidth" use. On March 26, 2001, the Court granted an *ex parte* Temporary Restraining Order with an asset freeze and the appointment of a receiver.

! According to the FTC's Complaint, Defendants used the Internet to advertise "discount" Web hosting services – such as domain name registry, Web page design and technical support – for monthly service fees of \$10 to \$15. Consumers provided credit or debit card numbers so that they could be billed. Without consumers' knowledge or approval, Defendants allegedly later charged many of their customers huge additional fees, in amounts sometimes as large as \$20,000, for such things as "excess bandwidth" use.

! The FTC has asked the Court to issue a permanent injunction to bar the deceptive and unfair business practices and for an order providing consumer redress and/or disgorgement of ill-gotten gains.

! This case was brought with the assistance of the Minnesota Attorney General's Office and the Civil Division of the United States Attorney's Office for the District of Minnesota.

! The Commission vote to file the Complaint was 5-0. It was filed in the U.S. District Court for the District of Minnesota on March 26, 2001.

Microsoft and Hewlett-Packard Settle FTC Charges of Making Misleading Pocket PC Claims

174. In the Matter of Microsoft Corporation and Hewlett-Packard Company. (April 3, 2001)

! Respondents: Microsoft Corporation and Hewlett-Packard Company x(585)

! The Commission alleged that Hewlett-Packard Company ("HP"), one of the nation's leading manufacturers of personal computer hardware, misrepresented that its Jornada Pocket PC handheld computers – personal digital assistants or "PDAs" – contained everything consumers needed to access the Internet and their e-mail accounts at anytime, from anywhere. The complaint contended that in order to remotely access the Internet or their e-mail accounts with the Jornada – i.e., when on the road – consumers must buy a modem or similar device. In fact, a separate landline modem costs approximately \$130, and wireless modems can cost \$350 or more.

! Under the settlement, HP may not misrepresent the ability of PDAs (and any other handheld Internet or e-mail access devices) that do not come with built-in wireless Internet and e-mail access to access the Internet or e-mail, nor could it misrepresent any performance characteristic of such products affecting access to the Internet or e-mail. Also, when making claims about the Internet or e-mail access of such devices, HP will need to disclose clearly and conspicuously the need for any additional products (such as a modem or mobile telephone, or adapter) or the need to subscribe to a special Internet or e-mail access service.

! Following a public comment period, the Commission has made final the consent agreement. The Commission vote to finalize the consent agreement was 5-0, with Commissioner Orson Swindle issuing a separate concurring statement. (FTC File No. 002-3220; staff contact is Michael Ostheimer, Bureau of Consumer Protection, 202-326-2699).

<http://www.ftc.gov/opa/2001/04/hpms4301.htm> (press release w/ complaint and proposed agreement)

<http://www.ftc.gov/opa/2001/05/fyi0132.htm> (press release - complaint, exhibits, decision & order, concurring statement of Commissioner Swindle).

Web Crammers Settle FTC Charges Of "Free Trial" Deception Allegations

175. In the Matter of Voice Media, Incorporated (April 17, 2001).

! Respondents: Voice Media Incorporated, a Corporation, and Ron Levi and Paul Lesser x(588)

! In the complaint detailing its charges, the FTC alleged that the VMI operates adult content Internet sites and sells memberships for \$19.95 to \$34.95 per month. The sites promote membership by periodically offering "free" 7-day trial memberships. VMI asked those signing up for the free trials to provide credit card numbers for age verification. The complaint alleged that VMI represented that it would not charge membership fees to consumers who affirmatively canceled their trial memberships within the trial period.

! Contrary to that representation, VMI sometimes allegedly charged monthly membership fees to consumers who canceled within the trial period. Additionally, the complaint alleged that VMI

immediately billed the credit cards of those consumers who signed up for the free trial at the outset, treating the submissions of credit card information as authorization to bill the accounts. However, consumers did understand that they had to take affirmative steps if they did not want to become members and be regularly billed.

! The settlement bars the defendants from making false or misleading statements - including misrepresenting whether consumers will be charged for goods or services during a free-trial period - and bars billing before providing clear and conspicuous notice of all terms and conditions. The settlement also prohibits the defendants from changing the terms of their agreements, cancellation or refund policies without first giving consumers the opportunity to cancel the membership.

! Following a public comment period, the Commission has made final the consent agreement. The Commission vote to finalize the consent agreement was 5-0. (FTC File No. 002-3003; staff contact is C. Steven Baker, FTC Midwest Regional Office).

<http://www.ftc.gov/opa/2001/04/voicer1.htm> (press release – complaint, agreement, and analysis).

<http://www.ftc.gov/opa/2001/05/fyi0133.htm> (press release - complaint and decision & order)

As Part of "Operation Detect Pretext" FTC Sues to Halt "Pretexting"

176. FTC v. Victor L. Guzzetta, d/b/a Smart Data Systems, Civil Action No. CV 01 2335 (Eastern District of New York) (April 17, 2001).

177. FTC v. Information Search, Inc., and David Kacala, Civil Action No. AMD-01-1121 (District of Maryland, Northern Division) (April 17, 2001).

178. FTC v. Paula L. Garrett, d/b/a Discreet Data Systems, Civil Action No. H 01-1255 (Southern District of Texas, Houston Division) (April 17, 2001).

! Defendants: Victor L. Guzzetta, d/b/a Smart Data Systems, Information Search, Inc., and David Kacala, Paula L. Garrett, d/b/a Discreet Data Systems. o(592)

! The Federal Trade Commission has filed suit in three U. S. District Courts to halt the operations of information brokers who use false pretenses, fraudulent statements, or impersonation to illegally obtain consumers' confidential financial information - such as bank balances - and sell it. Obtaining consumers' private financial information under false pretenses - a practice known as "pretexting" - violates federal law. The FTC asked the courts to halt the illegal practices permanently, freeze the defendants' assets pending trial, and order them to give up their ill-gotten gains. In each of the three cases the courts temporarily enjoined the defendant from continuing the illegal practices and imposed a partial freeze of assets pending a hearing.

! The Commission has been actively involved in the fight against pretexting since April 1999, when it filed suit against Touch Tone Information Systems, Inc., alleging that pretexting is deceptive and unfair in violation of the Federal Trade Commission Act. The three new suits filed this week represent the Commission's latest efforts under "Operation Detect Pretext" to stop pretexting allegedly in violation of the new anti-pretexting provisions of the Gramm-Leach-Bliley Act as well as the FTC Act.

! In documents filed with the courts, the FTC charged that the defendants maintained Web sites where they advertised that they could obtain non-public, confidential, financial information -- including such things as checking and savings account numbers and balances, stock, bond and

mutual fund accounts and safe deposit box locations -- for fees ranging from \$100 to \$600, depending on the information sought. In sting operations set up by the FTC in cooperation with local banks, investigators set up dummy bank accounts in the names of cooperating witnesses and then called defendants posing as purchasers of defendants' pretexting services.

! The FTC charged that the defendants use false pretenses to steal consumers' private financial information and sell it. The FTC complaints allege that these practices violate the FTC Act and the Gramm-Leach-Bliley Act. The Commission alleged that the sale of financial information by pretexters is also likely to injure consumers by invading their financial privacy and exposing them to the risk of economic harm and financial fraud because their information could be disclosed to individuals who might use it to deplete a bank account or liquidate a stock portfolio, or to steal an identity.

! The cases were filed under seal in U. S. District Courts for the District of Maryland; the Eastern District of New York; and the Southern District of Texas. The Commission vote to authorize the filing of the complaints was 3-2, with Commissioner Orson Swindle dissenting and issuing a dissenting statement, and Commissioner Thomas B. Leary dissenting and issuing a statement concurring in part and dissenting in part.

! All four defendants entered voluntary stipulated preliminary injunctions and the matter is currently in discovery.

<http://www.ftc.gov/opa/2001/04/pretext.htm> (press release w/ copy of complaint & TRO, dissenting statement of Commissioner Swindle and statement of Commissioner Leary)

Entertainment Software Rating Board Awarded "Safe Harbor" Status:

Program Will Promote Compliance with Children's Online Privacy Protection Act .

The Federal Trade Commission today announced that the Entertainment Software Rating Board (ESRB) has been approved as a "safe harbor" program under the terms of the Children's Online Privacy Protection Act (COPPA). Safe harbor programs are industry self-regulatory guidelines that, if adhered to, are deemed to comply with the Act. This is the second safe harbor application approved by the Commission. The Children's Advertising Review Unit of the Council of Better Business Bureaus (CARU) was the first COPPA safe harbor program approved.

<http://www.ftc.gov/opa/2001/04/esrb.htm>, April 19, 2001

First COPPA Civil Penalty Cases

Three Web Operators Agree to Pay Civil Penalties to Settle Violations of the Children's Online Privacy Protection Act

- 179. U.S. v. Bigmailbox.com** Civil Action No. 01-605-A (ED VA) (April 18, 2001).
- 180. U.S. v. Looksmart Ltd.** Civil Action No. 01-606-A (ED VA) (April 18, 2001).
- 181. U.S. v. Monarch Services and Girls Life, Inc.** Civil Action No. AMD 01 CV 1165 (D MD) (April 18, 2001).

! Defendants: Monarch Services, Inc. and Girls Life, Inc., dba www.girlslife.com; Bigmailbox.com, Inc., and Nolan Quan, dba www.bigmailbox.com; and Looksmart Ltd., dba www.insidetheweb.com

o596

! Marking the first anniversary of the effective date of the Children's Online Privacy Protection Act, the Federal Trade Commission announced settlements with three Web operators for violations of the Children's Online Privacy Protection Rule (COPPA Rule). The FTC charged Monarch Services, Inc. and Girls Life, Inc., operators of www.girlslife.com; Bigmailbox.com, Inc., and Nolan Quan, operators of www.bigmailbox.com; and Looksmart Ltd., operator of www.insidetheweb.com with illegally collecting personally identifying information from children under 13 years of age without parental consent, in violation of the COPPA Rule.

! To settle the FTC charges, the companies together will pay a total of \$100,000 in civil penalties for their COPPA violations. In addition to the requirement that these companies comply with COPPA in connection with any future online collection of personally identifying information from children under 13, the settlements require the operators to delete all personally identifying information collected from children online at any time since the Rule's effective date. These cases mark the first civil penalty cases the FTC has brought under the COPPA Rule.

! The Girlslife.com Web site targets girls aged 9 to 14, offering features such as online articles and advice columns, contests, and pen-pal opportunities. Partnering with BigMailbox.com and Looksmart Ltd., it also offered children free e-mail accounts and online message boards. The FTC alleged that each of the defendants collected personal information from children, including such things as full name and home address, e-mail addresses and telephone numbers. None of the Web sites posted privacy policies that complied with the Act or obtained the required consent from parents prior to the collection of their children's personally identifiable information, as required by COPPA. In addition, the BigMailbox privacy policy falsely claimed, among other things, that children under 13 years old could not open an e-mail account without prior parental consent.

! The Web sites collected children's personal information for their own internal uses, enabled children to publicly reveal their personal information online without first obtaining parental consent, and, in the case of BigMailbox, provided children's personal information to third parties without prior parental consent. The FTC also charged that all three operators required children to disclose more personal information than was needed for participation in the activities involved, a practice that also violates COPPA.

! Settlement of the cases will require each of the sites to delete all personal information collected from children since COPPA became effective. The settlements will bar future violations of COPPA and require that, in addition to posting a privacy policy that complies with the law, the sites link to the FTC site at www.ftc.gov/kidzprivacy, where consumers can find helpful information about COPPA. The BigMailbox settlement also bars the company from making deceptive claims in its privacy policy. Finally, Girlslife will pay a civil penalty of \$30,000 and BigMailbox and Looksmart each will pay civil penalties in the amount of \$35,000.

! The Commission vote to accept the proposed Stipulated Final Judgments and Orders was 5-0. They were filed by the Department of Justice at the request of the FTC, April 18. All three cases have been signed and entered by the courts.

<http://www.ftc.gov/opa/2001/04/girlslife.htm> (press release w/ copy of complaints, consent decrees and exhibits)

FTC Releases Follow-Up Report on The Marketing of Violent Entertainment to Children

The study, which includes an evaluation of disclosures on Web sites, finds companies in the motion picture and electronic game industries have demonstrated some progress since the September 2000 report; recording industry has not visibly responded.

<http://www.ftc.gov/opa/2001/04/spam.htm>, April 23, 2001

United States and Twelve Countries Unveil e-consumer.gov

Internet-based Project to Gather and Share Cross-Border e-Commerce Complaints Announced at International Marketing Supervision Network ("IMSN") Conference in New York.

<http://www.ftc.gov/opa/2001/04/econsumer.htm>, April 24, 2001

FTC Warns Manufacturers and Retailers of Ultrasonic Pest-control Devices

Staff of the Federal Trade Commission's Division of Enforcement today announced that they have sent warning letters, based in part on a "surf" of Internet sites marketing such devices, to more than 60 manufacturers and retailers of ultrasonic pest-control devices, stating that efficacy claims about those products must be supported by scientific evidence.

<http://www.ftc.gov/opa/2001/05/fyi0128.htm> (press release), May 3, 2001.

FTC Seeks Civil Penalties, Consumer Redress from Aftermarket Brake Guard Products for FTC Order Violations;

182. United States of America v. Brake Guard Products, Inc., et al. (West. Dist. of Wash.) (May 11, 2001).

! Defendants: Ed F. Jones, Larry Jones, Brake Guard Products, Inc., Brake Guard Limited Liability Company of Nevada, and Brake Guard Limited Liability Company of Washington. o(601)

! The Federal Trade Commission has asked a U. S. District Court to permanently halt the deceptive claims of an aftermarket brake marketer, to award civil penalties for violations of an earlier FTC order barring the claims, and to order consumer redress.

! In the suit filed in U. S. District Court, the FTC alleges that since March 30, 1998 the defendants have been marketing Brake Guard products primarily to the recreational vehicle market through a network of distributors, in seminars and via the Internet. The complaint charges that advertising and promotional material, packaging, brochures, flyers, promotional videos and an Internet web site, contain claims that violate a FTC's 1998 order. That order, which upheld the 1997 decision Administrative Law Judge Lewis F. Parker, found that Brake Guard made false and unsubstantiated advertising claims in violation of federal law that Brake Guard Safety System (also known as Advanced Braking System or Brake Guard ABS) is an antilock braking system as effective as manufacturer-installed ABS brakes; complies with a performance standard established by the Society for Automotive Engineers; and will qualify a vehicle for automobile insurance discounts in a significant proportion of cases.

! The complaint was filed at the FTC's request by the Department of Justice in U.S. District Court for the Western District of Washington, in Seattle on May 11, 2001.

! The Commission vote to file the complaint was 5-0.

<http://www.ftc.gov/opa/2001/05/brakeguard.htm> (press release – complaint)

Online services with undisclosed costs

In the Matter of Gateway, Inc. (May 15, 2001)

! Respondents: Gateway, Inc.

x(602)

! The Commission alleged that Gateway, Inc., one of the largest domestic marketers of personal computers ("PCs"), misrepresented the cost of its "Gateway.net" Internet access service. According to the FTC, so-called "free" or flat-fee services offered by Gateway actually resulted in significant additional charges to many consumers - a fact the Commission alleges was inadequately disclosed by the company. According to the FTC's complaint against Gateway, the company advertised its Gateway.net Internet access plan as being provided for free for one year with the purchase of the Gateway Essential Line of PCs-- "An unbelievable computer that actually comes with a year of Internet access." However, at the bottom of the advertisement in approximately two point type, the following disclosure appeared: "Rural access \$3.95/hour. Local access \$1.50/hour over 150 hours per month." Similarly, one of the challenged ads offered "1-Year Gateway.net Internet Access," with the relevant disclosure of additional possible fees appearing in a footnote, four pages later, at the bottom of the page, in the eighth line of eleven lines of fine print disclosures, in approximately four point type. Other ads promoted Gateway.net for a flat-fee of \$14.95 per month, with no disclosures of any possible additional fees.

! The settlement, will prohibit the company from misrepresenting the price or cost of any service to access the Internet or other electronic network, and requires Gateway to make clear and conspicuous disclosures of fees a consumer may incur to access such a service. Moreover, the order requires Gateway to pay redress to refund all charges for the so-called "toll free" numbers paid by customers who registered on the local access plan between January and April 1999, before consumers were adequately warned of the fee for "toll-free" calling.

! Following a public comment period, the Commission has made final the consent agreement regarding Gateway, Inc. The Commission vote to finalize the consent agreement was 4-0, with Chairman Timothy J. Muris not participating. (FTC File No. 992-3276; staff contact is Linda K. Badger, FTC Western Region-San Francisco)

<http://www.ftc.gov/opa/2001/05/gateway.htm> (press release w/ complaint, proposed agreement, analysis, & exhibits)

<http://www.ftc.gov/opa/2001/06/fyi0136.htm>

183. In the Matter of Juno Online Services, Inc. (May 15, 2001)

! Respondents: Juno Online Services, Inc.

x(603)

! The Federal Trade Commission has reached a consent agreement with Juno Online Services, Inc. ("Juno"), a national Internet Service Provider ("ISP"), over charges that advertising for its "free" and fee-based dial-up Internet access services was deceptive, in violation of Federal law. The challenged advertisements appeared in major newspapers, television commercials, radio, direct mailings, as well as online banner ads and on the company's Web site. According to the FTC complaint, Juno misrepresented

that consumers who participated in its free trial offers for Premium Internet service would be able to cancel at any time before the free trial period ended and incur no charges if they were not satisfied. According to the FTC, Juno engaged in several deceptive practices that made it unreasonably difficult for some consumers to cancel its so-called "free" trial period for its Premium Internet service, causing these consumers to be billed for service they no longer wanted. The FTC charges that many consumers waited long periods to reach a Juno customer support representative and were forced to abandon their attempts to cancel - incurring charges for Internet service that they did not want to purchase. Other FTC allegations include the charge that Juno also failed to disclose adequately that some subscribers to its Internet services would incur long distance telephone charges while connecting to the Internet.

! Under the terms of the settlement, Juno has agreed to stop misrepresenting the cost of its Internet services, to clearly and conspicuously disclose the cancellation terms for these services, to provide adequate customer support to handle consumer requests to cancel, and make prominent disclosure of long distance telephone charges that some consumers may incur while using its Internet services. The settlement also calls for Juno to reimburse certain former subscribers for long distance telephone charges they incurred to use its services.

! Following a public comment period, the Commission has made final a consent agreement regarding the following: Juno Online Services, Inc. The Commission vote to finalize the consent agreement was 4-0, with Chairman Timothy J. Muris not participating. (FTC File No. 002-3061; staff contact is Laura M. Sullivan, Bureau of Consumer Protection, 202-326-3327; see press release dated May 15, 2001.)

<http://www.ftc.gov/opa/2001/05/juno.htm> (press release w/ complaint, proposed agreement, analysis, & exhibits)

<http://www.ftc.gov/opa/2001/06/fyi0137.htm> (press release re consent agreement being finalized).

Boom in E-Commerce Has Created Fertile Ground for Fraud: FTC

The Federal Trade Commission today told Congress that the boom in e-commerce has created a fertile ground for fraud. Testifying before the House Committee on Energy and Commerce, Subcommittee on Commerce, Trade and Consumer Protection, Eileen Harrington of the FTC's Bureau of Consumer Protection said, "Internet technology is the latest draw for opportunistic predators who specialize in fraud. The rapid rise in the number of consumer complaints related to online fraud and deception bears this outThe need - and challenge - is to act quickly to stem this trend while the online marketplace is still young The Commission has strived to keep pace with the unprecedented growth of the electronic marketplace by targeting our efforts, making innovative use of the technology, and leveraging our resources to combat fraud on the Internet." The Commission vote to approve the testimony was 5-0.

<http://www.ftc.gov/opa/2001/05/ifttestimony.htm> (May 23, 2001)

TRUSTe Earns "Safe Harbor" Status:

Program Will Promote Compliance with Children's Online Privacy Protection Act .

The Federal Trade Commission today announced that TRUSTe, an Internet privacy seal program, has been approved as a "safe harbor" program under the terms of the Children's Online Privacy Protection Act (COPPA). Safe harbor programs are industry self-regulatory guidelines that, if adhered to, are deemed to implement the Act. This is the third safe harbor application approved by the Commission. Programs submitted by the Children's Advertising Review Unit of the Council of Better Business Bureaus (CARU), an arm of the advertising industry's self-regulatory program, and the Entertainment Software Rating Board

(ESRB) were previously approved as COPPA safe harbors.

<http://www.ftc.gov/opa/2001/05/truste.htm> (May 23, 2001)

"Operation Cure.All" Wages New Battle in Ongoing War Against Internet Health Fraud

Joint FTC/FDA effort to stop Internet scams for supplements and other products that purport to cure cancer, HIV/AIDS and countless other life-threatening diseases.

- 184. In the Matter of Panda Herbal International, Inc., and Everett L. Farr III. (File No. 002 3229)**
- 185. In the Matter of ForMor, Inc., and Stan Goss (File No. 002 3226)**
- 186. In the Matter of MaxCell BioScience, Inc., and Stephen Cherniske. (File No. 002 3098)**
- 187. In the Matter of Michael Forrest, individually and doing business as Jaguar Enterprises of Santa Ana. (File No. 012 3091)**
- 188. In the Matter of, individually and doing business as Aaron Company, and Lisa M. Spencer, individually and doing business as Aaron Company. (File No. 002 3312)**
- 189. FTC v. Western Dietary Products Co. (Skookum), a corporation, doing business as Western Herb & Dietary Products, Inc., and Marvin Beckwith, and Miguelina Beckwith (Western District of Washington at Seattle), Civil Action No. C01-0818R.**

! Defendants: Panda Herbal International, Inc., Everett L. Farr III., ForMor, Inc., and Stan Goss, Michael Forrest, d/b/a Jaguar Enterprises, Robert C. Spencer, Lisa M. Spencer, d/b/a Aaron Company, Western Dietary Products Co. d/b/a Western Herb & Dietary Products, Inc., Marvin Beckwith, and Miguelina Beckwith o(613)

! The FTC announced a fourth group of targeted enforcement actions to address marketing of unproven health products on the Internet. This is part of a coordinated four year long effort with the U.S. Food and Drug Administration (FDA), Health Canada, and various state Attorneys General. The cases in this phase of "Operation Cure.All," like earlier cases, often involve dramatic treatment and cure claims, often for a multitude of serious diseases. Some of the cases also raise serious safety implications. The six new FTC enforcement actions target companies marketing a variety of devices, herbal products, and other dietary supplements to treat or cure cancer, HIV/AIDS, arthritis, hepatitis, Alzheimer's, diabetes and many other diseases.

! Among the many products for which unfounded claims were being made were a DHEA hormonal supplement, St. John's Wort, various multi-herbal supplements, colloidal silver and a variety of electrical therapy devices. Among the many false and unsubstantiated claims challenged in today's cases were promises that: 1) People could cancel their surgery, radiation or chemotherapy in favor of herbal cures that cost hundreds of dollars; 2) A device that delivered mild electric current would kill the parasites that cause such serious diseases as cancer and Alzheimer's; and 3) Those with HIV or AIDS could use St. John's Wort as a safe treatment for the disease. In fact, the FTC alleged, there is inadequate evidence to support the use of the herb to treat AIDS. Indeed, St. John's Wort is known to interfere with proven HIV/AIDS medications.

! In the six new FTC cases, the companies were charged with making false and unsubstantiated health and

safety claims for a variety of products advertised on the Internet. Five of the companies agreed to settle the charges and the proposed settlement agreements were announced today for public comment.

! Among other relief obtained, the FTC will require the two companies that had been promoting St. John's Wort as a safe treatment for HIV and other diseases to include a disclosure warning of drug interaction risks in certain future marketing of St. John's Wort products.

! The Commission has filed a complaint in federal district court against the sixth company, Western Dietary Products, based in Blaine, Washington, and Marvin and Miguelina Beckwith, the company's owners. The complaint charges the defendants with making unsubstantiated claims about their products' abilities to treat and cure cancer, Alzheimer's, diabetes, arthritis, and HIV/AIDS. The complaint against Western Dietary Products Co. was filed in the U.S. District Court for the Western District of Washington, in Seattle, on June 4, 2001. At a June 13th hearing, the defendants agreed to entry of a preliminary injunction.

! The FTC expresses its appreciation for the assistance of FDA, Health Canada, and the state Attorneys General who participated in this and earlier phases of "Operation Cure.All."

! The Commission vote to accept the five consent agreements for public comment and the Commission vote to authorize the filing of the federal court complaint was 5-0.

<http://www.ftc.gov/opa/2001/06/cureall.htm> (press release, complaints, agreements, exhibits, analysis).

FTC Sues to Halt Deceptive Internet Access Fee Scam -- Agency Seeks Return of Consumers' Membership Fees and Personal Information

190. FTC v. New Millennium Concepts (ND IL, June 2001).

! Defendants: New Millennium Concepts, Inc., dba Rhinopoint.com and Karl V. Kay. o(615)

! The Federal Trade Commission has filed suit in U.S. District Court against an Internet operation, www.rhinopoint.com, that allegedly conned consumers into paying membership fees and turning over sensitive personal and financial information by deceptively claiming it would pay their Internet access fees. The agency charges that more than 50,000 consumers were taken in by the scam and that the defendants actually paid the access fees for fewer than five percent of them. On June 1, 2001, the Court entered a stipulated preliminary injunction order that prohibits misrepresentations, freezes the defendants' assets, and bars the use of the consumer data, pending trial.

! According to the FTC's Complaint, starting in November 1999, the defendants operated the rhinopoint.com Web site where they offered to pay Internet access fees to consumers who became part of their "network," and paid a one-time "set-up" fee ranging from \$10 to \$16. To join the network, consumers completed a questionnaire detailing personal information, including credit card numbers and income level, and agreed to complete monthly marketing surveys. The site's privacy policy stated, "We do not sell or provide individual names, addresses, phone numbers, credit information or other personal contact information data to outside parties under any circumstances." Court documents state that "Defendants rarely sent the promised surveys, even more rarely reimbursed consumers for their Internet access costs, but collected initial setup fees and personal information from tens of thousands of consumers anyway."

! The FTC has asked the Court to permanently halt to the scam, ban the use of the consumers' personal

and financial information, and redress injured consumers.

! The Commission vote to file the complaint was 5-0. It was filed in the U.S. District Court for the Northern District of Illinois.

<http://www.ftc.gov/opa/2001/06/millennium.htm> (press release)

International Pyramid Operation that Claims it is Operating in 200 Countries World Wide

191. *FTC v. Skybiz.Com, Inc., et al.* (Dist. Ct., N.D. Oklahoma) May 30, 2001

! Defendants: SkyBiz.com, Inc, World Service Corporation, Nanci Corporation International, WorldWide Service Corporation, James S. Brown, Stephen D. McCullough, Elias F. Masso, Nanci H. Masso, Kier E. Masso, and Ronald E. Blanton. x(625)

! The Federal Trade Commission has filed suit in U.S. District Court to stop defendants from promoting a work-at-home business opportunity with allegedly deceptive claims of quick riches. In in-person sales presentations, seminars, teleconferences, Web site presentations and in other marketing material, the defendants touted the opportunity to earn thousands of dollars a week by recruiting new "Associates" into the program. They provided CD-Roms, computer disks, videos and books promoting the SkyBiz programs and they provide a PowerPoint presentation on their website that can be downloaded to aid in recruiting new members. The cost to join the SkyBiz Program is \$125, ostensibly used to buy an "e-Commerce Web Pak," but in reality was to purchase the right to receive compensation for recruiting additional participants. Participants were urged to invest in more than one "Web Pak," to maximize their earning potential.

! The FTC charged that the claims that consumers who invested in SkyBiz would make substantial income were false; that failure to disclose that most people in pyramid schemes lose money is deceptive; that defendant provided the means and instrumentalities for others to deceive consumers by providing speakers and promotional materials that made the false and misleading claims; and that SkyBiz was actually an illegal pyramid scheme. All four violate the FTC Act.

! The Federal Trade Commission has asked a U. S. District Court Judge to halt the unlawful operations of SkyBiz.com, charging that the operation that purports to sell online tutorials on Web-based products is actually a massive illegal pyramid scheme which may have conned consumers around the world out of approximately \$175,000,000. At the request of the FTC, Chief Judge Terry C. Kern has temporarily halted all unlawful activities of the SkyBiz operation, frozen the defendants' assets to preserve them for consumer redress, and appointed a receiver, pending the preliminary injunction hearing scheduled for June 26, 2001.

! The complaint was filed by the FTC in U.S. District Court for the Northern District of Oklahoma on May 30, 2001, under seal. The seal was lifted June 8, 2001.

! The Commission vote to issue the complaint was 5-0.

<http://www.ftc.gov/opa/2001/06/sky.htm> (press release – complaint and TRO).

"Health-Care" Products Sold To Mask Pyramid Operation; Safety of Products Misrepresented

192. FTC v. Streamline International, Inc., et al. (Southern District of Florida, May 23, 2001)
(FTC File No. 002 3320) (Civil Action No. 01-6885-CIV-Ferguson)

! Defendants: Streamline International, Inc., J. R. Jackson, dba Action Enterprises and Robert "Bob" Waitkus, dba WorldWide Opportunities Network. o(628)

! The Federal Trade Commission has brought suit against a fraudulent Internet operation posing as a legitimate multi-level marketing business. The FTC charges that the scheme is actually an illegal pyramid that uses phony promises of easy income to scam consumers from across the country.

! According to the FTC complaint, since 1996 the operators of the scam have used Web sites, radio, direct mail and print advertisements to promote "Streamline," a fraudulent business opportunity whose members purportedly distribute a line of dietary supplements and health-care products. Marketing materials contain claims such as: "YES, YOU CAN MAKE \$500 - \$2,000 PER MONTH FOREVER!!!," and "NO MORE WORKING FOR THE NEXT 10, 20, 30 OR 40 YEARS. WORK PART-TIME THIS YEAR AND RETIRE NEXT YEAR." But the FTC alleges that in reality, the vast majority of participants in the Streamline program achieve little or no financial success, or make very modest earnings. The defendants require participants to make minimum monthly purchases in order to be eligible to earn recruitment-related commissions from the purchases of their "downline," - individuals beneath them in the organization. The FTC charges that the resale of these products by participants, which is neither encouraged nor required by defendants, is incidental to making money through the recruitment of new participants.

! In addition to claims about earnings, the program promotes its health-care products with the claim, "Our products contain only those ingredients that appear on the [FDA's] list of generally recognized as safe." The FTC alleges that in reality, a number of dietary supplements sold by the defendants contain the herbal ingredient comfrey, which is known to pose a significant risk to humans, including liver damage, when used internally or externally on open wounds.

! The FTC charges that the Streamline operation and its deceptive claims violate federal law. It has filed a motion for a preliminary injunction and other equitable relief, including appointment of a receiver and an asset freeze. The FTC will seek to permanently bar the operation at trial.

! The complaint was filed in United States District Court for the Southern District of Florida.

! The Commission vote to file the complaint was 5-0.

<http://www.ftc.gov/opa/2001/06/streamline.htm> (press release – complaint)

Joint FTC/Commerce Department Report Released on "Reasonable Demonstration" Requirement of E-SIGN

No Amendment of the Statute Recommended at this Time

The Federal Trade Commission and the U.S. Department of Commerce's (Commerce) National Telecommunications and Information Administration (NTIA) today released a report they prepared jointly at the request of Congress regarding the benefits and burdens of the "reasonable demonstration" requirement of the consumer consent provision contained in the recently enacted Electronic Signatures

in Global and National Commerce Act (ESIGN). The report states that "it is reasonable to conclude that, thus far, the benefits of the consumer consent provision of ESIGN outweigh the burdens of its implementation on electronic commerce." The report further concludes that ESIGN's reasonable demonstration requirement "appears to be working satisfactorily at this stage of the Act's implementation," and recommends that Congress take no action at this time to amend the statute.

<http://www.ftc.gov/opa/2001/06/esign.htm>

Internet Device with Undisclosed Costs and Rule Violations

193. United States of America (for the Federal Trade Commission) v. Netpliance, Inc. (Western District of Texas, Austin Division), July 2, 2001.

! Defendant: Netpliance, Inc. x(629)

! Netpliance, Inc., the marketer of a device being advertised as a less expensive alternative to the PC for Internet access and e-mail has agreed to settle Federal Trade Commission charges that its sales and billing practices violated federal laws. The agency charged Netpliance, Inc., a Delaware corporation based in Austin, Texas, with deceptive advertising, unfair billing, misrepresenting federal laws and violating a series of other federal laws that the FTC enforces, including the Mail or Telephone Order Merchandise Rule, the Truth-In-Lending Act and Regulation Z. Netpliance offers an Internet access device, called the "i-opener," and Internet services to consumers.

! The FTC complaint challenges its advertisements as deceptive because Netpliance failed to disclose adequately all of the extra costs associated with using the i-opener, such as monthly Internet service fees and long distance telephone charges. In addition, the company failed to disclose to consumers that they must use Netpliance's Internet service to access the Internet. Consumers could not access the Internet with the i-opener through another Internet service provider, even if Netpliance ceases providing Internet service in the future. The FTC complaint also alleges that Netpliance deceptively represented that it provided access to all of the Internet's entertainment and information and that it was equivalent to a personal computer with respect to its ability to access Internet content. In fact, i-opener users are unable to access many types of multimedia content available on the Internet.

! The FTC also challenged some of the company's billing practices as deceptive and unfair, which allegedly included charges not authorized by consumers. As part of the settlement, the company agreed to refund those consumers for the amounts illegally charged to their accounts.

! The FTC also charged the company with violating the Mail or Telephone Order Merchandise Rule. The company agreed to change its procedures to ensure that such violations will not recur in the future, and to pay a civil penalty of \$100,000. In addition, the company failed to issue promised credits to consumers' credit card accounts within seven business days as required under the Truth-in-Lending Act.

! The settlement calls for the company to clearly and conspicuously disclose important terms and qualifications associated with using the i-opener or any other internet or online access product or service, reimburse consumers for improperly billed charges, requires the company to pay a \$100,000 civil penalty, and bars the company from engaging in these illegal acts in the future.

! The Commission vote to refer the complaint and proposed consent settlement to the Department of Justice for filing was 5-0. The complaint and consent settlement were filed in U.S. District Court for the Western District of Texas, in Austin, by the Department of Justice, on June 27, 2001. It is subject to court approval.

FTC Announces Two More "Operation Cure.All" Cases Re Safety Risks of Comfrey Products Promoted via Internet

194. Federal Trade Commission v. Christopher enterprises, Inc. (District of Utah, Central Division) (July 6, 2001)

195. FTC v. Western Botanicals, Inc.; Randy C. Giboney; and Kyle D. Christensen (Eastern District of California) (July 13, 2001).

! Defendants: Christopher Enterprises, Inc., a corporation, and Norman Bacalla and Ruth Christopher Bacalla, individually and as officers of the corporation. o(632)

! Western Botanicals, Inc., a corporation, and Randy C. Giboney and Kyle D. Christensen, individually and as officers of the corporation. x(635)

! As part of its latest efforts in its ongoing and comprehensive "Operation Cure.All" to combat Internet health fraud, the Federal Trade Commission announced two additional cases challenging the marketing of unproven and dangerous products via the Web. Both targets manufactured and marketed a variety of products containing the herbal ingredient comfrey for both external and internal uses throughout the United States by mail and telephone orders, on the Internet and through distributors, retail stores, and health care practitioners.

! The FTC charges that both companies, Western Botanicals, Inc., a Fair Oaks, California company and Christopher Enterprises, Inc., based in Springville, Utah and their principals made unfounded claims that the products were beneficial in the treatment of a wide variety of serious diseases and health conditions, and that they were safe. In fact, comfrey contains toxic substances and, when taken internally, can lead to serious liver damage, according to the FTC.

! According to the FTC, the defendants claimed that their products treated and alleviated symptoms of various diseases and health conditions. In their advertising and promotional materials the defendants represented their comfrey products were safe for consumers, including nursing women, when taken internally or applied to open wounds. The defendants also claimed that their comfrey products, when taken internally would treat a wide range of chronic and or degenerative diseases, including multiple sclerosis, emphysema, tuberculosis, and spinal cancer.

! The FTC alleges that the defendants' representation that their comfrey products were safe is false, and that they did not have scientific evidence to substantiate their safety or efficacy claims. In fact, the FTC said, comfrey is not safe for internal use because it contains pyrrolizidine alkaloids which are known to be toxic to the liver, and taken internally such substances can lead to serious illness or death. The FTC further alleges that the defendants did not have adequate scientific evidence to substantiate the safety or efficacy claims they made for their comfrey products.

! The Christopher Enterprises defendants have agreed to a preliminary injunction order. The Western Botanicals defendants have agreed to a stipulated final order for permanent injunction to resolve the FTC allegations. Both orders would prohibit both companies from marketing any comfrey product for ingestion, for use as a suppository, or for external use on open wounds, unless they have evidence that the product is free of pyrrolizidine alkaloids and is safe. The orders require both defendants to stop marketing comfrey products for internal uses or on open wounds, and to include a warning on comfrey products marketed for external uses. The orders also state that the companies will stop making the

challenged safety and health benefit claims. They would also be required to place strongly worded disclosure any advertisement, promotional material or product label for any comfrey products intended for topical use warning of the dangers of internal use.

! The orders further would require them to notify their distributors that unsubstantiated claims violate the law and that the defendants will terminate distributors who make false or unsubstantiated claims. Finally, the orders include various recordkeeping and reporting requirements designed to assist the FTC in monitoring the defendants' compliance.

! On Friday July 6, 2001, the Food and Drug Administration issued a letter to industry communicating concern about the safety of supplement products containing comfrey, which includes a recommendation that firms immediately stop marketing comfrey-containing supplements and alert consumers to stop using the products. The letter is also posted on FDA's website at www.cfsan.fda.gov. The Food and Drug Administration has been a close partner of the FTC and assisted the agency in today's enforcement action, as well as many other aspects of "Operation Cure.All." The FTC also thanks the Texas Department of Health for its participation in this phase of "Operation Cure.All."

! The Western Botanicals stipulated permanent order also includes a suspended judgment of \$50,800 and a right to reopen provision that would reinstate the judgment if the court finds that the defendants made material misrepresentations or omissions on their financial statements. The Commission vote authorizing staff to file the complaint and proposed stipulated judgment in the Western Botanicals case was 5-0. They were filed in the U.S. District Court, Eastern District of California, in Sacramento, on July 11, 2001. The proposed judgment is subject to court approval.

! The Christopher Enterprises order for preliminary relief will remain in effect until further order of the court. The Commission vote to authorize staff to file the Christopher Enterprises complaint and the preliminary injunction was 5-0. The case was filed in the U.S. District Court, District of Utah, Central Division, in Salt Lake City, on July 3, 2001, and the injunction is subject to court approval.

<http://www.ftc.gov/opa/2001/07/chrisenter.htm> (press release – complaint, stipulated preliminary order)

<http://www.ftc.gov/opa/2001/07/westbot.htm> (press release – complaint, stipulated permanent order)

Billing Aggregators Debited Phone Bills for Charges Consumers Didn't Authorize

196. United States of America (for the Federal Trade Commission) v. New Century Equity Holdings Corp., Inc., Enhanced Services Billing, Inc., and Billing Concepts, Inc. (U.S. District Court for the District of Columbia), August 1, 2001.

! Defendants: New Century Equity Holdings Corp., Inc., Enhanced Services Billing, Inc., and Billing Concepts, Inc. x(638)

! ESBI and BCI each served as "billing aggregators." Billing aggregators open the gate to the telephone billing and collection system for vendors, and act as intermediaries between the vendors and the local phone companies, contracting with the local phone companies to have charges on behalf of their client vendors placed on consumers' telephone bills and to have the local telephone companies collect those charges from consumers. Once the charges are collected by the phone companies, the billing aggregators, after taking their fee, pass the revenues back to their client vendors. Although billing aggregators' services allow consumers to use their phone services as a payment mechanism, they are also susceptible to abuse if the billing aggregators fail to adequately police the practices of vendors

who may engage in fraudulent billing.

! The FTC complaint challenges that 1) ESBI falsely represented that consumers were legally obligated to pay charges on their telephone bills for web sites and other items they had not ordered or authorized others to order for them; 2) ESBI unfairly attempted to collect - or arranged for local phone companies to collect - payment of charges from consumers for web sites and other items they had not ordered and that consumers were unable to prevent ESBI from causing such unauthorized charges to appear on their phone bills; 3) BCI falsely represented that consumers were legally obligated to pay charges on their telephone bills for a calling card, when the consumers had neither asked for the card nor authorized anyone else to ask for it on their behalf; and 4) BCI unfairly attempted to collect - or arranged for local phone companies to collect - payment of charges for calling card fees that consumers had not ordered and that the consumers were unable to prevent BCI from causing such unauthorized charges to appear on their phone bills. The complaint also alleged that, acting as a billing aggregator for vendors of 900-Number services, BCI violated the FTC's 900-Number Rule by failing to perform a reasonable investigation to determine whether the charges about which consumer complained were valid.

! As part of the settlement, the defendants will be barred from illegally billing consumers in the future, which will, among other things, stop the defendants from placing charges on a consumer's phone bill that they "know or should know" the consumer did not authorize. Defendant New Century Equity Holdings Corp., Inc. will give up \$350,000 in ill-gotten gains. The other defendants, Enhanced Services Billing, Inc. (ESBI), and Billing Concepts, Inc. (BCI), to provide notices to consumers that their bills may contain unauthorized charges for website design and other enhanced services, to inform consumers how to obtain a refund, and to provide refunds.

! The Commission vote to refer the complaint and settlements to the Department of Justice for filing was 4-0, with Chairman Timothy J. Muris not participating. The complaint and proposed consent judgments were filed in U.S. District Court for the District of Columbia on August 1, 2001 by the Department of Justice at the request of the FTC. The proposed settlements are subject to court approval.

<http://www.ftc.gov/opa/2001/08/billing3.htm> (press release – complaint and consent decree???)

More Bigsmart Pyramid Promoters Settle FTC Charges

Two Promoters Barred for Life from Future Multi-Level Marketing Plans

197. FTC v. Netforce Seminars (U.S. District Court Arizona), August 9, 2001.

! Defendants: Netforce Seminars, Richard Slaback, J.D. Noland, Darin Epps, and Edward Lamont (643)

! Three operators of the Bigsmart pyramid, Darrin Epps and Edward Lamont and Richard Slaback an Internet-based business opportunity that promised easy income for investors in an Internet shopping mall network have agreed to settle Federal Trade Commission charges that their scheme was an illegal pyramid operation.

! Bigsmart is based in Mesa, Arizona. Darrin Epps, and his company Netforce Seminars, recruited participants in the pyramid scheme from their offices in Austin and San Antonio, Texas. Edward Lamont recruited from offices in Pittsburgh, Pennsylvania. Epps and Lamont were also previously high-level distributors in Equinox International Corporation, another multi-level marketer sued by the Commission in August 1999. The third defendant, Richard Slaback, also recruited participants in the

Bigsmart scheme and served as the figurehead "president" of the company for approximately eight months.

! According to the FTC complaint detailing the charges, Bigsmart marketed Internet theme "malls" that it claimed would enable investors to earn substantial income from commissions on products purchased through the Internet. The FTC charged that the claims that consumers who invested in Bigsmart would make substantial income were false; that promotional materials that made the false and misleading claims provided the means and instrumentalities for others to deceive consumers; and that Bigsmart was actually a pyramid scheme. Each of these practices were violations of the FTC Act.

! The settlement permanently bars two of the promoters, Darrin Epps and Edward Lamont, from participating in multi-level marketing schemes. A third defendant, Richard Slaback, is barred from participation in multi-level marketing schemes for seven years. All of the defendants are barred from making false or misleading claims in selling any business venture or from assisting others to make false claims. Slaback will pay consumer redress in the amount of \$38,000.

! The Commission vote to approve the settlements was 5-0. The orders were filed in U.S. District Court for the District of Arizona. This case was brought with the invaluable assistance of the Offices of the Attorney General of Texas and the Wisconsin Department of Agriculture, Trade, & Consumer Protection, Division of Trade & Consumer Protection.

Marketer of Dietary Supplement Purporting to Treat Liver Diseases Agrees to Settle FTC Charges:

Must Have Adequate Scientific Evidence in the Future

198. FTC v. Liverite Products (U.S. District Court for the Central District of California, Southern Division), August 21, 2001.

! Defendants: Liverite Products, Inc., Corinne Jacobson, individually and as an officer, Steven Jacobson, individually and as an officer, Sheri Grant, individually and d/b/a Digipro and Healthy Life Marketing, and James Grant, individually and d/b/a Digipro, and Healthy Life Marketing x648

! Liverite Products, Inc., based in Tustin, California, its two principals, and two other individuals agreed to settle Federal Trade Commission charges that they made numerous unsubstantiated claims in Internet, radio, and print ads about the ability of "Liverite" dietary supplement products to treat or prevent a wide range of liver diseases or disorders, including cirrhosis and hepatitis.

! The FTC's complaint names Liverite Products, Inc., Corinne and Steven Jacobson, and James and Sheri Grant. According to the complaint, defendants Corinne and Steven Jacobson direct and control Liverite Products, and defendants James and Sheri Grant developed the websites through which the Liverite products were advertised and sold. The Liverite products included: Liverite, the Ultimate Liver Aid; Liverite 3 in 1 for Men; Liverite 3 in 1 for Women; and Liverite Sports. The primary ingredient in each of these products was extract of beef liver. The products were sold at retail outlets, such as GNC and CVS, by telephone, and on the Internet at "liverite.com," "liveriteproducts.com," and "healthylifemarketing.com."

! According to the FTC's complaint, the defendants' advertisements represented that Liverite can prevent and treat hangovers; prevent and treat alcohol-induced liver disease, including cirrhosis; treat liver diseases, including cirrhosis and hepatitis; and alleviate the toxic side effects of various drugs. The FTC complaint alleges that these representations were not supported by competent and reliable scientific evidence. The complaint further alleges that the defendants falsely claimed that clinical tests

proved that Liverite is effective for the treatment of liver problems.

! In addition to the defendants' advertisements that made unsubstantiated claims, the defendants also used "metatag" technology to deceive consumers. Metatags are key words embedded in the source code for a webpage that are invisible to the average consumer, but are used by search engines to respond to consumers' search requests. The complaint also alleges that the defendants embedded in the metatags of the Liverite websites terms such as AIDS, hepatitis A, B & C, liver problems, liver disease, liver detoxification, alcohol, hangover, cirrhosis, anabolic steroids, interferon, and hepatotoxicity, thereby increasing the likelihood that consumers who researched these topics on the Internet would be directed to defendants' websites.

! The proposed stipulated final order also will require the defendants to possess scientific substantiation for claims that any food, drug or dietary supplement can treat, cure, alleviate the symptoms of, prevent, or reduce the risk of developing any disease or disorder. In addition, the defendants cannot claim that any Liverite product is "the ultimate liver aid," unless the claim is scientifically substantiated. The defendants also will be prohibited from misrepresenting the results of any test or study, and will be prohibited from misrepresenting that any testimonial or endorsement is the typical or ordinary experience of users of the advertised product, unless the claim is substantiated. Finally, the order requires Liverite Products, Inc. and the Jacobsons to pay \$60,000.

! The Commission vote to authorize staff to file the complaint and proposed stipulated final order was 5-0. They were filed in the U.S. District Court for the Central District of California, Southern Division, in Santa Ana, on August 20, 2001, and require the court's approval.

Spammers Settle FTC Charges

199. FTC v. Get Out From Under.com, Inc. (Dist. Ct. N.J.), August 24, 2001.

! Defendants: Get Out From Under.Com, Robert Stout d/b/a Global Internet Federal Registry, and Donald J. Lytle, individually and as an officer and director. x651

! Spammers who collected consumers' personal identifying information, including credit card information, by telling them they had to supply the data or lose access to the Internet have agreed to settle Federal Trade Commission charges that their scheme violated the law.

! The Federal Trade Commission charged that in mid-October 1999, Robert Stout, doing business as Global Internet Federal Registry; Get Out From Under.com, Inc.; and Donald J. Lytle, an officer and director of Get Out From Under.com, sent unsolicited commercial e-mail (spam) to Internet news groups notifying members that because of the Children's Online Privacy Protection Act, consumers were required to certify their age to maintain access to the Internet. The messages directed consumers to defendants' Web sites. The sites advised consumers that, "all Internet users are required to register here for Internet licensing," and provided an application form that collected information ranging from consumers' names and addresses to credit card numbers and expiration dates.

! In December 1999, the FTC filed a complaint in the U.S. District Court for the District of New Jersey, charging that the defendants' representations were false and deceptive. Shortly thereafter, the FTC and the defendants agreed to a preliminary order that required destruction of all consumer information collected by defendants as a result of the representations alleged in the complaint. The Stipulated Judgment and Order for Permanent Injunction announced today resolves that court case.

! A preliminary order in the case required the defendants to destroy the collected information; this final settlement resolves the remaining issues involved, permanently barring the defendants from

misrepresentations in the advertising, marketing, promotion, distribution or sale of any products or services via the Internet. In addition, the settlement bars the defendants from collecting, using, selling or transmitting consumers' personal identifying information or credit card information obtained as a result of misleading representations.

! The Commission vote to approve the Stipulated Final Judgment and Order was 5-0.

Cyberscam Targeted by FTC

5,500 Copycat Web Addresses Capture Computers and Mousetrap Surfers

200. FTC v. John Zucharini (E.D. PA., October 1, 2001)

o652

! Defendants: John Zuccarini, individually and doing business as Cupcake Party, Cupcake-Party, Cupcake Parties, Cupcake-Parties, Cupcake City, Cupcake Patrol, Cupcake-Patrol, Cupcake First-Patrol, Cupcake Show, Cupcake-Show, Cupcake Shows, Cupcake-Shows, Cupcake Parade, Cupcake-Parade, Cupcakes, Cupcake Confidential, Cupcake-Movies, Cupcake Real Video, The Cupcake Incident, The Cupcake Secret, Cupcake Message, Cupcake Messenger, The Country Walk, JZ Design, and RaveClub Berlin.

! A cyberscammer who used more than 5,500 copycat Web addresses to divert surfers from their intended Internet destinations to one of his sites, and hold them captive while he pelted their screens with a barrage of ads, was charged by the Federal Trade Commission with violating federal laws. At the request of the FTC, a U.S. District Court enjoined his activities pending further order of the court. The FTC will seek a court order to force the defendant to give up his ill-gotten gains.

! According to the FTC, the scheme works like this: The defendant registers Internet domain names that are misspellings of legitimate domain names or that incorporate transposed or inverted words or phrases. For example, he registered 15 variations of the popular children's cartoon site, www.cartoonnetwork.com, and 41 variations on the name of teen pop star, Britney Spears. Surfers looking for a site who misspell its Web address or invert a term - using cartoonjoe.com, for example, rather than joecartoon.com - are taken to the defendant's sites. They then are bombarded with a rapid series of windows displaying ads for goods and services ranging from Internet gambling to pornography. An FTC investigator entered one of the defendant's copycat domain names, annakurnikova.com, and 29 browser windows opened automatically. In some cases, the legitimate site to which the consumer was attempting to go is also launched, so that consumers may think the hailstorm of ads to which they are being exposed is from a legitimate Web site.

! Once consumers are taken to one of the defendant's sites, it is very difficult for them to exit. In a move called "mousetrapping," special programming code at the sites obstructs surfers' ability to close their browser or go back to the previous page. Clicks on the "close" or "back" buttons cause new windows to open. "After one FTC staff member closed out of 32 separate windows, leaving just two windows on the task bar, he selected the "back" button, only to watch as the same seven windows that initiated the blitz erupted on his screen, and the cybertrap began anew," according to papers filed with the court.

! Finally, the defendant's sites contained a "stealth" feature that was hidden under the task bar, making it invisible to consumers. ". . . The stealth page contains no content. Instead, its sole function is to act as a timer, periodically launching additional pages of advertisements, without any action by

consumers. Thus, even as consumers struggle to escape defendant's multi-window mousetrapping scheme, more windows launch automatically," FTC documents say.

! The FTC estimates that the defendant earns between \$800,000 and \$1 million annually from his scheme, charging advertisers whose banner ads and affiliate programs are included on his Web sites. According to documents filed by the FTC, "Defendant has been sued no fewer than 63 times in the last two years, including seven federal district court cases . . . and 56 arbitration proceedings. . . Despite losing 53 suits and having almost 200 of his domain names transferred to the rightful trademark owner, celebrity, or company, defendant continues his practice of diverting and trapping consumers for his personal profit."

! The Commission vote to file the complaint was 5-0. It was filed under seal in the United States District Court for the Eastern District of Pennsylvania, in Philadelphia, on September 25, 2001. The seal was lifted September 28.

Fiscal Year	Cases
94	1
95	0
96	13
97	8
98	18
99	60
00	50
01	50
Total	200